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In the

SUPREME COURT OF THE UNITED STATES  
October Term, 1977

No.

**76-1840**

SAM POLUR,

Petitioner,

v.

HONORABLE ROSZELE C. THOMSEN,

Respondent,

and

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

MOTION FOR LEAVE TO FILE PETITION  
AND PETITION, FOR COMMON LAW WRIT  
OF CERTIORARI OR FOR WRIT OF MANDAMUS  
TO THE COURT OF APPEALS FOR THE  
FOURTH CIRCUIT

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2. Whether the Court of Appeals abused its discretion in declining to allow an appeal from the judgment of the District Court, denying petitioner's petition for a peremptory writ in the nature of mandamus and for a temporary stay, as to which appeal to the Court of Appeals is discretionary with the latter Court, and not a matter of right.

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For the reasons above stated, a Writ of Certiorari or Writ of Mandamus should issue to review the Judgment and opinion of the United States Court of Appeals for the Fourth Circuit, and the Order and Judgment of the United States District Court for the District of Maryland, and for such other further and different relief as to this Court may seem appropriate.

The Petitioner, Sam Polur, respectfully prays for leave to file the within petition and upon granting of such leave, that a writ of certiorari or a writ of mandamus issue to review the judgment of the United States Court of Appeals for the Fourth Circuit entered in this proceeding on April 21, 1977 and of the United States District Court for the District of Maryland's Opinion and Order of March 22, 1977.

## OPINIONS BELOW

The opinion and order of the Court of Appeals of April 21, 1977 and the Court's Per Curiam opinion and order of March 16, 1977 are unreported and appear in the Appendix hereto. The opinion and order of March 22, 1977, notice of hearing of March 3, 1977 and opinion and order of October 8, 1976 of the said District Court are all unreported and appear in the Appendix herein.

## JURISDICTION

The judgment of the Court of Appeals was entered March 16, 1977. A timely motion for rehearing was denied without written opinion April 21, 1977. This Petition was filed within 30 days of that date. This Court's jurisdiction is invoked pursuant to 28 U.S.C., Sections 1254(1) and 1651(a), and Rule 30 of the Rules of this Court.



### QUESTIONS PRESENTED

1. Whether this Court has jurisdiction to issue a common law writ of certiorari or writ of mandamus, directed to the Court of Appeals, on the basis that it has abused its discretion in declining to allow an appeal from the judgment of the District Court.

2. Whether the Court of Appeals abused its discretion in declining to allow an appeal from the judgment of the District Court, denying petitioner's petition for a peremptory writ in the nature of mandamus and for a temporary stay, as to which appeal to the Court of Appeals is discretionary with the latter Court, and not a matter of right.

3. Whether this Court should exercise its discretion to issue a common law writ of certiorari or writ of mandamus to the Court of Appeals.

### CONSTITUTIONAL PROVISIONS INVOLVED

ARTICLE 1, SECTION 8: The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

ARTICLE 11, SECTION 3: He shall from time to time give to the Congress Information of the State of the Union, and recommend to their Consideration such Measures as he shall judge necessary and expedient; he may, on extraordinary Occasions, convene both Houses, or either of them, and in Case of Disagreement between them, with Respect to the Time of Adjournment, he may adjourn them to such Time as he shall think proper; he shall receive Ambassadors and other public Ministers; he shall take care that the Laws be faithfully executed, and shall Commission all the Officers of the United States.

ARTICLE 111, SECTION 3: Treason against the United States, shall consist only in levying War against them, or in adhering to their Enemies, giving them aid and comfort. No Person shall be convicted of Treason unless on the Testimony of two Witnesses to the same overt act, or on Confession in open Court.

AMENDMENT 1: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

AMENDMENT V: No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

#### STATUTES INVOLVED

TITLE 18 U.S.C., SECTION 953: Private correspondence with foreign governments.

Any citizen of the United States, wherever he may be, who, without authority of the United States, directly or indirectly commences or carries on any correspondence or intercourse with any foreign government or any officer or agent thereof, with intent to influence the measures or conduct of any foreign government or of any officer or agent thereof, in relation to any disputes or controversies with the United States, or to defeat the measures of the United States, shall be fined not more than \$5,000 or imprisoned not more than three years, or both.

This section shall not abridge the

right of a citizen to apply, himself or his agent, to any foreign government or the agents thereof for redress of any injury which he may have sustained from such government or any of its agents or subjects.

TITLE 18 U.S.C., SECTION 951: Agents of foreign governments.

Whoever, other than a diplomatic or consular officer or attache, acts in the United States as an agent of a foreign government without prior notification to the Secretary of State, shall be fined not more than \$5,000 or imprisoned more than ten years, or both.

TITLE 28, U.S.C., SECTION 1337: Commerce and anti-trust regulations.

The district courts shall have original jurisdiction of any civil action or proceeding arising under any Act of Congress regulating commerce or protecting trade and commerce against restraints and monopolies.

TITLE 15, U.S.C., SECTION 2: Monopolizing trade a misdemeanor; penalty.

Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding fifty



thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

TITLE 18, U.S.C., SECTION 371: Conspiracy to commit offenses or to defraud United States.

If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined not more than \$10,000 or imprisoned not more than five years or both.

If, however, the offense, the commission of which is the object of the conspiracy, is a misdemeanor only, the punishment for such conspiracy shall not exceed the maximum punishment provided for such misdemeanor.

TITLE 26, SECTION 7201, INTERNAL REVENUE CODE OF 1954: Attempt to evade or defeat tax.

Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall, in addition to other penalties provided by law, be guilty of a felony and, upon conviction thereof, shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both, together with the costs of prosecution.

TITLE 22, SECTIONS 611-621: FOREIGN AGENTS AND PROPAGANDA (Reprinted in full Appendix "A", infra.)

TITLE 15, U.S.C., SECTION 1: Trusts, etc., in restraint of trade illegal; exception of resale price agreements; penalty.

Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal: Provided, That nothing contained in sections 1 to 7 of this title shall render illegal, contracts or agreements prescribing minimum prices for the resale of a commodity which bears, or the label or container of which bears, the trademark, brand, or name of the producer or distributor of such commodity and which is in free and open competition with commodities of the same general class produced or distributed by others, when contracts or agreements of that description are lawful as applied to intrastate transactions, under any statute, law, or public policy now or hereafter in effect in any State, Territory, or the District of Columbia in which such resale is to be made, or to which the commodity is to be transported for such resale, and the making of such contracts or agreements shall not be an unfair method of competition under section 45 of this title; Provided further, That the preceding proviso shall not make lawful any contract or agreement, providing for the establishment or maintenance of minimum resale prices on any commodity herein involved, between manufacturers, or between producers, or between wholesalers, or between brokers, or between factors, or between retailers, or

between persons, firms, or corporations in competition with each other. Every person who shall make any contract or engage in any combination or conspiracy declared by sections 1 to 7 of this title to be illegal shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding fifty thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

#### STATEMENT OF THE CASE

On October 10, 1973, as part of a "plea bargain" with Federal prosecutors, Spiro T. Agnew resigned from the office of Vice President of the United States. Concurrently therewith, he pleaded Nolo Contendere to the first count of the felony of Income Tax Evasion, which was part of a Multiple Count Criminal Information, in satisfaction of the entire Criminal information. The Court, Honorable Walter E. Hoffman presiding, thereupon placed the defendant on three years' probation upon acceptance of the plea. The Court expressly admonished the defendant "not to violate any state or federal law" during pendency of the probationary period.

Petitioner herein duly served and filed a complaint on September 30, 1976, seeking monetary damages against Spiro T. Agnew. Thereafter, on October 5, 1976 he sought an Order by way of a proposed Order to

Show Cause, submitted to Senior Judge Thomsen, Why Spiro T. Agnew Should Not Have His Probation Revoked for Violation of the aforesaid Court's Order (App."B", Infra). Annexed thereto was an Attorney's Affirmation and copy of the said complaint.

Notably, plaintiff had carefully set forth for the District Court below the imperative necessity of proceeding as the initiating party with respect to the proposed Order to Show Cause. The precision of that statement was never challenged. Plaintiff is fully aware he stated those facts under oath and pursuant to penalties for perjury. That significant disclosure follows:

"6. That during the extensive research required before filing and serving of the annexed Complaint and attached Exhibits thereto, your affirmant became aware of and believes he learned in small part of the extensive alleged activities of Spiro T. Agnew contemporaneous with and subsequent to his Term of Office as Vice President of the United States, for and on behalf of Foreign Powers, primarily those of the member-Nations of the Organization of Petroleum Exporting Countries and the United Arab Republic.

"7. That your affirmant believes he



is duty bound to reveal to this Court the many violations he believes he has discovered to have been committed by Spiro T. Agnew, as a result of his massive research in preparation for this within lawsuit; and that as an Officer of the Court he has no choice but to bring these multiple violations he has believed he has discovered to the Court's purview so that appropriate legal sanctions may be applied for the alleged violations of probation aforesaid, as the Court deems fit and proper in the premises.

"8. That your affirmant relies on the law of the case he herewith sets forth below and the facts he believes he has uncovered, in furtherance of his belief that the allegations raised in the annexed Order to Show Cause are valid and subsisting.

"9. Application is made for an Order to Show Cause in lieu of Notice of Motion and Motion because in no other way can the issue of violations of the terms of Spiro T. Agnew's probation be timely determined. This proposed Order to Show Cause has been made forthwith upon discovery by your affirmant of the said multiple grave violations as alleged."

A hearing was duly held on October 8,

1976, before the Honorable Roszele C. Thomsen, at which three representatives of the Department of Justice were present. A formal Order (See, App.A Infra) was duly handed down based on that Order to Show Cause hearing aforesaid, although the Court refused to sign that motion. Its critical provisions substantially were as follows:

a. The Court declined to revoke the probation of Spiro T. Agnew, which was allowed to thereby expire October 10, 1976.

b. The Court retained jurisdiction over Spiro T. Agnew's probation for another two years beyond the October 10, 1976 expiration date.

c. The United States' Attorney's Office, through the three members present, to wit, Paul E. Kramer, Deputy United States Attorney for Maryland, Patrick Glyn and Larry Gregg of the Justice Department's Criminal Division in Washington, D.C.. All were duly directed by the Court to "investigate" the serious charges made by Sam Polur and to report back to the Court In Camera as to their findings, at which time the Court would consider taking whatever action he deemed appropriate.

A Notice of Appeal was duly filed

with the Clerk of the Court the same day, October 8, 1976 from the above-cited Order and proceedings had therein, and from each and every ruling of the Court, adverse to the motion and the hearing had thereon.

On February 22, 1977, the District Court received the "report" duly ordered from the Justice Department on October 8, 1976. (See App.B-1, infra). The Court thereupon notified petitioner, Mr. Agnew's Counsel, the Justice Department and the Probation Office of the Baltimore District of a Hearing on March 14, 1977. This was allegedly to be for the purpose of deciding whether any further proceeding with respect to possible revocation of Spiro T. Agnew's probation was warranted.

The Department of Justice "report" revealingly showed the Justice Department's fixed resolve not to comply with the Order to "investigate". The heart of the report hereinbelow ineluctibly points up the evasiveness of the "investigation" as ordered by the Court:

With regard to the allegation that Mr. Agnew has violated the Foreign Agents Registration Act, 22 U.S.C. section 691, et seq. by his failure to register, Department of Justice Attorneys met on January 14, 1977,

with Mr. Agnew, his attorney, and the Secretary-Treasurer of Education for Democracy, Inc., to determine whether the corporation and/or Mr. Agnew had incurred an obligation to register under the Act. After review of the corporation's correspondence files, minutes of corporate meetings, check, bank statements, membership and contribution lists, and other financial records, it was determined, that there was no reason to believe that Mr. Agnew, through Education for Democracy, Inc., has acted on behalf of or in the interest of any foreign principal in violation of the Act. (emphasis added) (sic!)

In view of the clear evidence there had been no subpoena of any record whatsoever from either defendant, and that surely no testimony whatsoever was adduced from Mr. Agnew, and that your petitioner was not apprised of this meeting nor subpoenaed for his testimony, your petitioner on March 11, 1977 moved the Court of Appeals for a Peremptory Writ in the Nature of Mandamus and a Temporary Stay of the Proceedings to be held March 14th. The grounds were usurpation by the District Court of judicial jurisdiction it unlawfully exercised, more time needed to investigate and obtain more proofs by both deponent and the Department of Justice.

The hearing, nonetheless, was held on



that day, March 14, but the District Court reserved its ruling thereon until the Court of Appeals acted on the petition. On March 16, 1977 the petition was denied in a Per Curiam opinion and order (App.A, Infra).

Although time for petitioning for a rehearing of that petition was still pending, the District Court, nonetheless, on March 22, 1977, duly had filed and served an order which concluded: (See, App.A Infra)

...on the basis of the material submitted in this proceeding, that it should follow the recommendations of the Department of Justice and the Probation Office, and should not require Agnew to show cause why his probation should not be revoked.

The order denying that petition was rendered and duly filed April 21, 1977. (See, App.A, Infra)

The proposed Order to Show Cause herein, fully set forth in the Appendix infra, was replete with factual and legal touchstones for a Court to entertain a hearing on the issues propounded therein. Illustratively, page "7", for sequential clarity, is hereinbelow set forth:

SHOW CAUSE, why this Court should not order Spiro T. Agnew to Cease and Desist from his alleged secret meetings with foreign potentates; to Cease and Desist from obtaining monies, favors, commercial profits, any and all business advantages of any nature or manner what-

soever from any of the aforesaid Arab rulers, to wit, the King of Morocco, the King of Saudi Arabia, the Crown Prince of Saudi Arabia and any of the said Monarchs' agents, consorts, servants, associates, or underlings or from any members, agent, associate of, employee, contractor for or on behalf of any of the other member-Nations of the Organization of Petroleum Exporting Countries or of the United Arab Republic, in order to protect the security and safety of the United States of America; and to

SHOW CAUSE, why the above-cited moral delinquency found as a matter of law to adhere to the said Spiro T. Agnew, a Disbarred Attorney upon explicit findings of unworthiness by the highest Court of his State, to wit the Court of Appeals of Maryland, and from which Order and Judgment the said Spiro T. Agnew has never appealed, should not be a total bar to his dealing with impunity or pursuant to exemption in advocating the interests of foreign nations in conflict with the Constitution and Laws of the United States of America without full disclosure of his motives and the means furnished for his advocacy; and to

SHOW CAUSE, why Spiro T. Agnew retained such valuable gifts as cited hereinabove, and to tell this Court what other gifts, emoluments, monies, gratuities, favors, business interests were solicited, bargained

for, received, and or bartered for services rendered or to be rendered for and on behalf of said Arab Potentates, the Organization of Petroleum Exporting Countries and the United Arab Republic during and subsequent to his said Term of Office as Vice President of the United States and subsequent to his resignation upon his plea to a Felony charge of Income Tax Evasion as and for the "plea bargain" to have same suffice for the entire multi-count Criminal Information then and there outstanding against Spiro T. Agnew; and to ...

Petitioner, as a party Qui Tam and Quia Timet, respectfully, since inception of his participation herein, alleged the Court and the parties appearing at the Hearing scheduled for March 14, 1977 at the Baltimore District Court would do so although jurisdiction would clearly be lacking. To "avoid later intricacies and a Judicial snarl," the Petition sought by him in the Court of Appeals with respect to that Hearing was for a Temporary Stay. The predicate for the Hearing - the "Report" of February 16, 1977 (AppB, Infra) was alleged to be invalid as a matter of law and of Constitutional limitations. It attempted to arrogate jurisdiction through judicial powers not possessed by the Executive Branch of our Government. That submission under the circumstances, it was alleged, was an impertinence. The ratio decendi for that Justice Department intru-

sion into the judicial sphere was the cited District Court order of October 8, 1976 to "investigate", not to render judicial opinions. In lieu of a straightforward compliance with that order of the Court, the Justice Department Attorneys chose to thwart Judge Thomsen's directives.

Among the issues raised at that October 8, 1976 Hearing was that Spiro T. Agnew has nowhere stated under oath, nor had to prove to anyone, that the priceless gifts he had received in 1971 while serving as Vice President of the United States of America were all finally turned over to the State Department on April 1, 1974, more than three years following their receipt; as mandated by the Foreign Gifts and Decorations Act of 1966, 22 U.S.C., sections 804, et seq., Nor that these were the only lawful or unlawful gifts he had converted and fraudulently concealed from the Court upon his sentencing on October 10, 1973, when he was duly admonished "to not violate the laws of the United States or any State."

Though fully aware of these grave charges, and particularly, the direct issue posed of National Security and our survival as a Nation implicitly threatened by this morally-adjudicated delinquent dealing with impunity in advocating the interests of foreign nations in conflict with the Constitution and Laws



of the United States without fullest disclosure of his, Spiro T. Agnew's motives and the means furnished for his advocacy - nonetheless, the Department of Justice Attorneys have concededly not even questioned Spiro T. Agnew nor "investigated" him and his activities as requested and ordered by the District Court.

It was this lapse, together with the stated impertinence in attempting to arrogate jurisdiction through judicial powers not possessed by the Executive Branch of our Government that brought the petition and petition for rehearing before the Court of Appeals. The proposed Hearing, it was respectfully submitted, because of the nature of the alleged response as furnished by the Department of Justice - and upon which the Hearing was premised, created a legal nullity. The grounds were set forth with particularity.

The petition was submitted for a peremptory writ in the nature of mandamus and for a temporary stay of all Court and related proceedings - and duly renewed as aforesaid for a re-hearing when that petition was denied by the Court of Appeals. All pending the Department of Justice being made to truly investigate the questions raised therein; issues which had such a direct and immediate effect on the inherent sovereignty of the United States, the integrity of its

courts and its entire criminal justice system. Alternatively, the Court of Appeals was urged to grant the writ and temporary stay until your petitioner could proceed in an orderly and methodical manner in Discovery through depositions and related procedures authorized by the Federal Rules of Civil Procedure; and until such time as this orderly and methodical discovery and depositions and related procedures would be effectuated, the District Court not be permitted to hold the contemplated hearing in that its premise was basically a nullity under the stated circumstances.

A synopsis of the grave issues posed at the October 8, 1976 Hearing aforesaid should show beyond peradventure why the District Court is in grievous error for not conducting the Probation Revocation Hearing. These were all before the Court, as found in the submitted proposed Order to Show Cause and the verified Complaint. Defendant Spiro T. Agnew had been accused of: -

- \* Overt violations of the Foreign Agents and Propaganda Statute, sections 611-621 of Title 22 of the United States Code.

- \* Civil and criminal violations of the Sherman and Clayton Anti-Trust Acts, under section 15 of Title 15 of the United States Code and section 4 of the

Clayton Act, as amended, of on ongoing nature.

\* Violation of his fiduciary duties to the public and to the Government as Vice President of the United States of America and as a former Vice President of the United States, while on probation from October 10, 1973 to the present; and all in derogation of the Constitution of the United States.

\* Violation of section 371 of Title 18 of the United States Code, being part of the Laws relating to Conspiracy to Commit Offenses or Defraud the United States, upon the ground that said acts of Spiro T. Agnew and his alleged co-conspirator, Education for Democracy, Inc., jointly and severally, and the said acts of Spiro T. Agnew, together in combination with one or more persons, at present unknown to your petitioner, acted at all times jointly and in concert with others to defraud the United States and the citizens thereof, including Petitioner with proximate damage to his pecuniary interest, and all during the terms and the time of his said probation from October 10, 1973 to the present.

\* Engaging in a calculated campaign to further the Oil Embargo and the Blacklist, as imposed upon the United States of America and its possessions by the OPEC and the UAR, as well as having done

same in conspiracy with the said Education for Democracy, Inc.

\* Withholding relevant information in the premises, constituting a continuing breach of his fiduciary duty, while Vice President of the United States of America; and all of which constitutes to petitioner and to the public and the Government of the United States a denial of due process and equal protection of the laws under the Fifth Amendment with respect to the correlative rights to Freedom of Expression under the First Amendment to the Constitution of the United States.

\* Accretion of financial and pecuniary gain from said foreign potentates, OPEC and the UAR, which must remain highly suspect by any reasonable standard.

\* Engaging in a willful, illegal and criminal course of conduct, inimical to the United States and its citizens.

Defendant-Respondent Spiro T. Agnew has also been accused of: -

\* Receiving exceedingly expensive jewelry and related gifts from a number of foreign potentates from the Middle East, including King Faisal of Saudi Arabia, the King of Morocco and the Crown Prince of Saudi Arabia, inter alia, and contrary to the statutes and laws so



providing, failed immediately to turn them over to the Department of State Chief of Protocol as mandated.

\* Conspiring together with Education for Democracy, Inc., continuously at all times material to this complaint, to "repay" and to further "earn" and receive substantial recompense for the aforesaid; and other valuable gifts, emoluments, monies and things of great value from the aforesaid leaders of OPFC and the UAR, and others similarly situate, at this time unknown to petitioner, and all contrary to the economic, political, military and industrial interest of the United States of America, and its citizenry who have an abiding interest in seeing that their leaders are not bribed, "bought" or traduced through the giving and acceptance of valuable gifts, emoluments and other things of value financially.

\* Failure to disclose to plaintiff and to the American public information in the premises not specifically exempt pursuant to provisions of sections 552 and 552a of Title 5 of the United States Code.

\* Soliciting, receiving and accepting such valuable gifts, emoluments and jewelry as aforesaid, during his Term in Office as Vice President of the United States of America, as aforesaid,

and contrary to the Laws and Statutes and the individual defendant's Oath of Office as therein provided; and inimical to the moral, ethical and decent concepts upon which our Nation and its leadership are presumably firmly founded. Spiro T. Agnew thereby, at all times and continuously, is permitting himself to be reasonably vulnerable to blackmail, extortion and other related onslaughts from those secret benefactors and foreign potentates, if the individual defendant's stated political positions during, or subsequent to, his said Term of Office as the second highest elected official in the land were to vary from those of his foreign potentate donors, the rulers of the OPEC and the UAR and the member-Nations of the organization.

And it was crucial by any reasonable standard of law and equity or minimal Constitutional safeguards that these issues be confronted through testimony under oath and cross-examination of the most searching nature.

That was clearly not forthcoming at the proposed - and executed - hearing of March 14, 1977. A ruling, as seen, was speedily held. Nonetheless, lack of jurisdiction, aforesaid, as timely alleged and at the critical period before it was even held, should vitiate



this unlawful ruling; a ruling clearly in derogation of the rule of law and in apposition to fundamental Constitutional safeguards.

The within petition for a writ of certiorari or mandamus directed to Hon. Roszele C. Thomsen, Senior Judge of the District Court and to the Court of Appeals for the Fourth Circuit, respectfully urges this Court to reverse that Order and Ruling of the Courts below, as respectively rendered, and to grant petitioner the relief prayed for in his within petition.

#### REASONS FOR GRANTING THE WRIT

1. The Court of Appeals overlooked and misapprehended controlling rules of law and constitutional issues in arriving at their Order and Judgment herein affirming their refusal to grant a peremptory writ in the nature of mandamus and a temporary stay.

2. The District Court below arrogated unto itself the unlawful jurisdiction to rule on the very issue timely appealed on October 8, 1976 - and duly accepted for appeal by the Court of Appeals on October 8, 1976 - in violation of Court rulings and Constitutional limitations.

3. The District Court has failed to counter the clear defiance by the Depart-

ment of Justice to "investigate" petitioner's "grave charges" lodged against Spiro T. Agnew; thus providing preferential standards violative of Due Process and Equal Protection of Law to all others similarly situate; and the Court of Appeals has not ordered the District Court to protect its own integrity.

4. Instructively the Department of Justice entirely failed to even "go through the motions" of interrogating, investigating or otherwise being concerned with the Probationer, Spiro T. Agnew!

5. The issues raised hereinbelow are a separable controversy, invested with finality, and of magnitude in terms of Constitutional significance - and at all times collateral to the issue of the mere recovery of monetary damages; and, hence, should have been heard by the Court of Appeals and ruled upon.

6. Leading Circuits have deemed matters such as the case hereinbelow clearly a separable legal matter and subject to the rule of finality and full appellate review; that includes the Court of Appeals for the Fourth Circuit.

7. Where there was no probation supervision and the United States District Court authorized appearances by private parties to probation revocation hearing and hearing to determine whether there

should be an Order to Show Cause signed by that Tribunal - to put in issue whether the probation should be revoked -- and arguments by Attorney pro se and Attorney putting in "special appearance" for probationer occur, there is a waiver of all objections and the hearing has been duly held on revocation of probation; and the Court of Appeals should have enforced petitioner's rights in the premises thereto and therein, under all the circumstances therein subsisting.

8. Constitutional questions of great magnitude, affecting the ultimate security and perhaps the sovereign integrity of our Nation have been created by the failure of the District Court to follow Due Process and Equal Protection of the Law in the premises, as more fully set forth by the briefs and exhibits duly served and filed in the Courts below; all of which are herein relied upon as controlling rules of legal and Constitutional import warranting granting of the petition herein sought.

9. Where the Court of Appeals hereinbelow has rendered a decision in conflict with the decisions of other Courts of Appeals on like matters of appealability and review, and has decided the Federal questions presented in a way to conflict with applicable decisions of this Court, and has so far departed from

the accepted and usual course of judicial proceedings and so far sanctioned such a departure by a lower court, as to call for an exercise of this Court's power of supervision.

The law of the case is equally persuasive.

Leading Circuits have deemed matters such as the case herein clearly a separable and collateral legal issue such as to be subject to full appellate review. The Second Circuit, in a per curiam opinion in IBM v. Edelstein, et ano., 526 F.2d 37, 40 stated, in a petition for a writ of mandamus, the legal rule which makes this petition appropriate:

Moreover, appellate review will be defeated if the writ does not issue, for petitioner's claims are not of the kind that will be merged into any final judgment and thus capable of correction on appeal.

An order granting a motion to disqualify counsel is a final judgment under the collateral order doctrine of Cohen v. Beneficial Industrial Loan Corp., this Court's landmark ruling in this area. (337 U.S. 541) See, also, Hull v. Celanese Corp., 513 F.2d 568, 570-571 (2d Cir. 1975) and the Fourth Circuit's own reasoned opinions, in conformance with

that guide in United States v. Hankish, 462 F.2d 316, 318 (1972), and in United States v. Landsdown, 460 F.2d 164, 172 where the Court creatively ruled in this area. See, also, Yablonski v. U.M.W., 147 U.S.App.D.C.193, 454 F.2d 1036, 1038 and n.9 (1971), cert. den. 406 U.S. 906; Andrews v. United States, 373 U.S. 334, 338-339 (1963); United States v. Hayman, 342 U.S. 205 (1963); In Re Yarn Processing Patent Validity Litigation, 530 F.2d 83 (5 Cir. 1976), at p. 85.

In Lloyd v. Lawrence, 60 F.R.D. 116, at p. 118 (USDC S.D. Tex - 1973), the rule was luminously set down: -

When an appeal is taken from a decision of the district court, the jurisdiction of the district court terminates. That of the Court of Appeals attaches upon the filing of an adequate notice of appeal. Fed.R.App.P. 4(a) ... Thereafter, the district court has no jurisdiction and accordingly no control or power over the litigants or the case except to aid the appeal or correct clerical errors. Fed.R.App.P. 7,8,10 and 11; Fed.R.Civ.P. 60(a); Walleck v. Hudspeth, 128 F.2d 343 (10th Cir.1942); 9 Moore's Federal Practice & Procedure §203.11.

The jurisdiction of the court of appeals does not terminate upon the issuance of an opinion by that court. Jurisdiction remains in that court for an additional 21 days. Fed.R.App.P. 41. Only after the expiration of this period and by the issuance of the mandate does the jurisdiction over the case move from the court of appeals back to the district court.

During the interim between the filing of the notice of appeal and the issuance of the mandate, the district court is powerless to take any action in a case except for the limited purposes of aiding the appeal or correcting errors. ... Any other action taken by the district court during such interim is null, void and of no force or effect for any purpose. ... (emphasis added)

Surely, it would be difficult to find a more perceptive and authoritative statement of the law with respect to this case. These undisputed facts clearly mandate this petition being granted and, upon review, the District Court below held to have violated the statutes and the Constitutional mandate herein. As readily seen, the tests were met:

\* Filing of a timely and sufficient and adequate Notice of Appeal.



\* That act immediately transferred jurisdiction from the district court to the court of appeals with respect to any matter subsumed in that appeal.

\* The most fundamental issue on appeal before the United States Court of Appeals was that of a Hearing to be mandated on possible revocation of probation for Spiro T. Agnew. But the District Court, despite the clearest knowledge and awareness of that issue on appeal, on March 3, 1977 notified all parties a hearing would be held March 14, 1977 to determine whether a probation revocation hearing should be held. Thereupon the hearing was held pursuant to that written notice. On March 22, 1977 the District Court filed its written opinion that, premised on the hearing and the "material submitted in this proceeding", that it would not require Spiro T. Agnew to show cause why his probation should **not be** revoked. The Court expressly stated it "should follow the recommendations of the Department of Justice and the Probation Office."

\* The Transcript of that hearing\*\* shows it would be difficult to find a more slavish and legally meaningless recommendation of the Probation Office. That farcical "recommendation" merely was that the Probation Office had read

\* See, App. B, infra.

\*\* See, App. B, infra.

the Department of Justice "Report" and would, effectively, go along with it. The rubber stamp acceptance, without more, removed the Probation Office from its statutory role of independence and fearless advocate of truth to that of a legal "Charley McCarthy" doing the bidding of a Court determined to arrive at its pre-conceptions to salvage a Faithless Executive. The ruling, of course, was upon the precise issue then on appeal, inter alia, as to whether Spiro T. Agnew should have his probation revoked for violation of the Foreign Gifts and Decorations Act of 1966 and Fraudulent Concealment of the expensive gifts from Arab Potentates received while he was Vice President of the United States in 1971, AND THE OTHER CITED REASONS FOR SAME!\*

\* The obvious defects in the afore-said Hearing of March 14, 1977 were highlighted by the overriding fact that the Hearing was not in aid of the appeal nor was it to correct clerical errors.

Obvious defects in Constitutional and statutory terms of that March 14, 1977 Hearing being held at all was clearly not apprehended by the distinguished Court of Appeals. That was the fundamental defect, not merely whether the Court's ruling thereon was "interlocutory" and hence, allegedly, not appealable. Additionally, the Hearing was premised on a Department of Justice

\* See, App. B, infra, for October 8, 1976 Transcript of Hearing.

"Report" which clearly violated the Separation of Powers doctrine in that it usurped Judicial prerogatives and Constitutional responsibilities and, in violence to the Constitution, wrested the Dispensing Power from the Judiciary.

Other cases which are in accord with the general rule that the District Court was divested of jurisdiction in the premises upon filing of the timely and sufficient notice of appeal to the Court of Appeals, include: G & M, Inc. v. Newbern, 488 F.2d 742, 746; Maloney v. Spencer, 9 Cir., 1948, 170 F.2d 231; Radack v. Norwegian American Line Agency, Inc., 318 F.2d 538, 542 (9 Cir. 1963); Roberts v. United States District Court, 339 U.S. 844 (1950). And review by mandamus is appropriate where a court's prospective appellate jurisdiction might otherwise be thwarted, as herein, by the action of the district court. See, Roche v. Evaporated Milk Ass'n., 319 U.S. 21 (1943); IBM v. Edelstein, 526 F.2d 37 (2 Cir. 1975). See, also, Will v. United States, 389 U.S. 90, at 95 (1967); LaBuy v. Howes Leather Co., 352 U.S. 249 (where a district judge displayed a persistent disregard of the Rules of Civil Procedure promulgated by the Supreme Court); McCullough v. Cosgrave, 309 U.S. 634; Los Angeles Brush Mfg. Corp. v. James, 272 U.S. 701, 707 (dictum).

The issues were timely presented for review in the Court of Appeals. They included the following issues presently before this Tribunal, numbered as found below on pages iv and v in the Consolidated Appeals Brief dated April 4, 1977 and hereinbelow reprinted for sequential clarity:

1. WHETHER THE CONSTITUTION OF THE UNITED STATES - AS THE ORGANIC LAW OF THE SOVEREIGN AND ITS INHERENT PREMISE OF PRESERVATION OF THE LIFE OF ITS PEOPLE - PROHIBITS A DISCREDITED FORMER VICE PRESIDENT OF THE UNITED STATES, A DISBARRED ATTORNEY AND CONVICTED FELON FROM DEALING WITH IMPUNITY OR PURSUANT TO EXEMPTION WITH FOREIGN POWERS; ESPECIALLY WHERE, IN THE VERY HIGHEST COUNCILS OF OUR GOVERNMENT, HE HAS BEEN PRIVY TO AND HAD ACCESS TO TOP SECRET AND CONFIDENTIAL INFORMATION, INCLUDING UNITED STATES MILITARY, NUCLEAR AND CONTINGENT PLANS RELATING TO NATIONAL DEFENSE OF THE UNITED STATES FOR MORE THAN FOUR YEARS.

2. WHETHER THE COURT BELOW COULD LAWFULLY IGNORE A JUDICIALLY-FOUND FRAUDULENT CONCEALMENT OF VALUABLE GIFTS FROM FOREIGN ARAB POTENTATES BY A PROBATIONER AT THE VERY TIME OF SENTENCING, ESPECIALLY WHERE THAT SAME PROBATIONER HAS NOTORIOUSLY ESPOUSED THE MILITARY, ECONOMIC AND PROPAGANDA INTERESTS OF THOSE SAME SECRET BENEFACTORS.



3. WHETHER THE COURT BELOW CAN LAWFULLY REFUSE TO HOLD A REVOCATION OF PROBATION HEARING OF A PROBATIONER WHO, OPENLY AND NOTORIOUSLY HAS PURSUED A SYSTEMATIC PRO-ARAB, ANTI-ISRAEL PROPAGANDA, ECONOMIC AND BUSINESS VENDETTA THROUGH NATIONAL PRESS AND ELECTRONIC MEDIA DURING THE TERMS OF HIS PROBATION - AND WHO, SIMULTANEOUSLY, HAS FAILED TO REGISTER AND DISCLOSE HIS MONETARY AND PERSONAL CONTRACTS FOR DOING SAME, ALL IN OPEN DEFIANCE OF THE FOREIGN AGENTS AND PROPAGANDIST STATUTE AND LAWS ENACTED THEREUNDER.

4. WHETHER THE COURT BELOW HAS THE JURISDICTION TO RENDER A WRITTEN OPINION ON THE VERY ISSUE OF REVOCATION OF PROBATION WHICH IS BEFORE THIS TRIBUNAL ON APPEAL.

5. (Omitted)

6. WHETHER THE COURT BELOW HAS LAWFULLY REFUSED TO HOLD HEARINGS UNDER OATH AND SUBJECT TO PERJURY OF DEFENDANT-PROBATIONER AND HIS CO-DEFENDANT ACCUSED OF CONSPIRING TO AND COMMITTING ACTS IN DEFIANCE OF THE SHERMAN AND CLAYTON ANTI-TRUST AND MONOPOLY STATUTES; AND REFUSING TO ELICIT TESTIMONY UNDER OATH FROM THE INDIVIDUAL PROBATIONER ON WHETHER SUCH ACTS CONSTITUTE VIOLATIONS OF TERMS OF HIS PROBATION IN THAT HE IS CONTINUALLY CHARGED THEREBY WITH VIOLATION OF STATE AND FEDERAL LAWS AND STATUTES, INCLUDING MANDATES OF A CRIMINAL AND PENAL NATURE.

7. WHETHER THE COURT BELOW, WHICH PLACED A CONVICTED FELON ON UNSUPERVISED PROBATION, PRESUMABLY IN ORDER TO ENHANCE THE TRANQUILITY AND PRESERVE THE SECURITY OF THE NATION, MAY CONTINUE TO TREAT SUCH A PROBATIONER, A FORMER VICE PRESIDENT OF THE UNITED STATES, A MERE PRIVATE CITIZEN SINCE HIS OCTOBER 10, 1973 FORCED RESIGNATION, WITH PREFERENTIAL STANDARDS VIOLATIVE OF DUE PROCESS OF LAW AND EQUAL PROTECTION OF THE LAW TO ALL OTHERS SIMILARLY SITUATE.

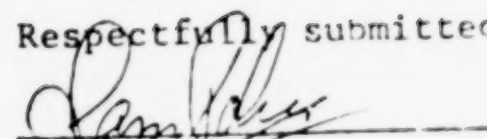
8. WHETHER THE COURT BELOW COULD LAWFULLY ABNEGATE ITS NON-DELEGABLE JURISDICTION BY ACCEPTING AND HOLDING A HEARING ON THE JUSTICE DEPARTMENT REPORT, WHICH TRANSPARENTLY EXHIBITED A STARTLING VIOLATION OF THE CONSTITUTIONAL SEPARATION OF POWERS MANDATE, HENCE WAS A LEGAL NULLITY, AND A CLEAR USURPATION BY THAT EXECUTIVE BRANCH OF THE JUDICIAL PREROGATIVES OF THE COURT.

This matter is a separable controversy collateral to the issue of the recovery of damages. This petition literally concerns the inherent sovereignty of the United States. Its determination may also serve to protect the Government against the disclosure of nuclear secrets by the disbarred attorney and former Executive who has been judicially found to have cheated his own Government for pecuniary gain; by the man who, in the very highest councils of our Government has been privy to and had access to Top Secret and Confidential information, including United States military, nuclear and contingent plans relating to National Defense of the United States of America from January 20, 1969 until October 10, 1973; and who, as a member of the Highest National Security Council during said period has been invested with secrets which could prove invaluable and priceless to foreign powers in a political, military, economic sense; e.g., awareness of where our secret supplies and depots of oil are and the quantity of same.

#### CONCLUSION

For the reasons above stated, a Writ of Certiorari or Writ of Mandamus should issue to review the judgment and opinion of the United States Court of Appeals for the Fourth Circuit, and the Order and Judgment of the United States District Court for the District of Maryland and for such other further and different relief as to this Court may seem appropriate.

Respectfully submitted,



DATED: June 18,  
1977. Miami,  
Florida 33132

SAM POLUR  
Attorney Pro Se  
600 Biscayne Boulevard  
Miami, Florida 33132

#### CERTIFICATE OF SERVICE

Sam Polur, duly licensed Attorney at Law in the State of New York, affirms, under penalties of perjury that he has this date duly mailed copies of the within Petition and Appendix "A" and "B" to the following:

Court of Appeals  
10 & Main Streets  
Richmond, Va.

Hon. Roszele C. Thomsen  
Senior Judge  
United States District Court  
Lombard Street  
Baltimore, Maryland 21201

W. Lee Harrison, Esq.  
Attorney for Spiro T. Agnew  
& Education for Democracy, Inc.  
401 Washington Ave.  
Towson, Maryland

Hon. Paul R. Kramer Deputy U.S. Attorney United States Dist. Ct. Lombard St., Maryland (21201)	Hon. Richard L. Thornburgh Assistant Attorney General Criminal Division Department of Justice Washington, D.C. 20530
--	--

Three copies each of the foregoing were duly mailed, as above cited to each above address, June 22, 1977.



In the

SUPREME COURT OF THE UNITED STATES

October Term, 1977

No. \_\_\_\_\_

SAM POLUR,

Petitioner,

v

HONORABLE ROSZELE C. THOMSEN,  
Respondent,

and

UNITED STATES COURT OF APPEALS FOR THE  
FOURTH CIRCUITON WRIT OF CERTIORARI OR WRIT OF  
MANDAMUS TO THE UNITED STATES COURT  
OF APPEALS, AND TO THE UNITED STATES  
DISTRICT COURT FOR THE DISTRICT OF  
MARYLANDPETITION FOR CERTIORARI OR WRIT OF  
MANDAMUS FILED MAY 20, 1977

APPENDIX "A"

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APPENDIX A

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

No. 77-1299

IN RE:

Sam Polur,

Petitioner.

ORDER

Upon consideration of the petitioner's petition for a rehearing for a peremptory writ in the nature of mandamus and a temporary stay, pro se,

IT IS ORDERED that the petition for rehearing is DENIED. Entered at the direction of Judge Butzner for a panel consisting of Judge Butzner, Judge Russell and Judge Field.

FILED

APR 21 1977

WILLIAM K. SLATE, II  
CLERK

For the Court,

/s/ William K. Slate, II

CLERK

A True Copy, Teste:

William K. Slate, II, Clerk

*Paul D. Smith*

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APPENDIX A

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

No. 77-1299

In Re: Sam Polur, Petition.

Petition for a Peremptory Writ in the Nature of Mandamus and a Temporary Stay.

Submitted: March 14, 1977 Decided:  
March 16, 1977.

Before BUTZNER and RUSSELL, Circuit Judges, and FIELD, Senior Circuit Judge.

Sam Polur, Esq., Petitioner Pro Se.

## PER CURIAM:

Upon receipt of a report from the Department of Justice concerning Spiro T. Agnew, the District Court for the District of Maryland scheduled a hearing to consider the report and to determine whether a probation revocation hearing should be held. Sam Polur, Esq., appearing pro se, has petitioned for a writ of mandamus or a temporary stay to prohibit the court from holding the hearing until the Department or he, himself, conducts a more thorough investigation.

This court is not empowered either by 28 U.S.C. § 1292 or by its authority to issue writs of mandamus to review the interlocutory order of the district court scheduling the hearing about which the petitioner complains. *Will v. United States*, 389 U.S. 90 (1967); *Stans v. Gagliardi*, 485 F.2d 1290 (2d Cir. 1973).

The petition is denied, and this case is dismissed. The clerk is directed to issue the mandate forthwith.

## APPENDIX A

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND  
UNITED STATES OF AMERICA :

v. : CRIMINAL NO.73-  
SPIRO T. AGNEW : 0535

Filed March 22, 1977.

Paul R. Kramer, Deputy United States for  
the District of Maryland, Baltimore, Maryland,  
for the government.

W. Lee Harrison, Baltimore, Maryland,  
for the defendant.

Thomsen, Senior District Judge

On October 10, 1973, Spiro T. Agnew, the defendant herein, entered a plea of nolo contendere to a one count criminal information charging him with evasion of federal income taxes in violation of 26 U.S.C. 7201. On the same day Judge Walter E. Hoffman, of the Eastern District of Virginia, sitting by designation, accepted that plea and imposed a sentence of \$10,000 fine and three years unsupervised probation. The plea was entered immediately after Agnew had resigned as Vice President of the United States. As part of an agreement leading to that resignation, the Attorney General recommended to Judge Hoffman in open court that no prison sentence be imposed.

On September 30, 1976, Sam Polur, a member of the bar of New York, residing in Florida, filed a civil action in this court against Agnew and Education for



Democracy, Inc., claiming substantial damages against each of them for alleged violations of several federal statutes. On October 5, 1976, Polur moved, in that civil action, for "an Order to Show Cause why Spiro T. Agnew should not have his probation revoked during the balance of the term thereof, prior to the expiration of the three year period of probation duly imposed upon the said Spiro T. Agnew by this Court on October 10, 1973." Polur based his motion on the allegations contained in his civil complaint, and an "attorney's affirmation" in support of his motion.

The civil case was routinely assigned to me, and on October 8, 1976, a hearing was held on that motion, attended, at the court's request, by Paul R. Kramer, the Deputy United States Attorney, and W. Lee Harrison, an attorney who appeared specially on behalf of Agnew. After hearing from Polur and the attorneys whom the court had requested to attend, the court read and filed the following statement:

"Sec. 3653 of Title 18, U.S.C., provides in pertinent part that at any time within the probation period, or within the maximum probation period permitted by §3651 (which is five years), the court for the district in which the probationer is being supervised may issue a warrant for his arrest for violation of probation occurring during the probation period.

Requests for such warrants are usually made by the probation officer who has supervision of the probationer or by the chief probation officer of the district. In the case of United States v. Spiro T. Agnew, however, Judge Hoffman did not require that the probationer be under supervision.

"Nevertheless, a court can act on information brought to its attention by the United States Attorney or other representative of the Department of Justice or by other sources.

"Plaintiff in this civil case has made allegations some of which, if proved in this case or otherwise shown to be true, might justify this court in taking appropriate action under §3653.

"At present, however, these are mere allegations withone exception -- the material contained in the recommendation of the Three Judge Panel and the opinion and order of the Court of Appeals of Maryland in the disciplinary proceedings brought against Spiro Agnew. That proceeding dealt with his activities before his conviction and therefore cannot be the basis for the revocation of probation which plaintiff seeks. See 18 U.S.C. 3653, summarized above.

"Moreover, the allegations are made by plaintiff in a civil action in which he seeks to obtain more than \$1 million in damages from the defendant Agnew. They are not supported by a convincing affidavit or affirmation.

"The court concludes that it should not take any action in the criminal case at this time, except to request the Department of Justice to investigate the allegations, if the Department has not already done so, and to recommend to this court whether the court should take any action in the criminal case, and if so what action."<sup>1</sup>

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1/ Polur took an appeal from that ruling in the civil case. No decision on that appeal has yet been rendered, but the appeal in the civil case does not require or justify this court to refrain from taking appropriate action in this criminal case.

This court received the report and recommendation of the Department of Justice on February 22, 1977. The report dealt with two groups of allegations made by Polur which, if shown to be true, might be appropriate grounds for revocation of probation. With respect to allegations that Agnew has failed to register as a foreign agent in connection with his work for Education for Democracy, Inc., the Department of Justice concluded, after meeting with Agnew, his attorney, and the Secretary-Treasurer of Education for Democracy, Inc., and after reviewing various corporate records, that "there was no reason to believe that Mr. Agnew, through Education for Democracy, has acted on behalf of or in the interest of any foreign principal in violation of the (Foreign Agents Registration) Act." With respect to allegations that Agnew failed to report or deliver to the State Department until April 1, 1974, a number of gifts which he had received from officials of foreign governments while he was Vice President, in violation of the Foreign Gifts and Declarations Act, the report concluded that although there had apparently been technical violations of the Act as a result of Agnew's delay in delivering to the State Department gifts received in 1971, "in view of the administrative rather than criminal background of the Act, it would be inappropriate to use the



quasi-criminal sanction of probation revocation in this case."<sup>2</sup>

Upon receipt of the Department of Justice report, Judge Hoffman and I discussed the situation and agreed that we should ask Chief Judge Haynsworth of the United States Court of Appeals for the Fourth Circuit whether Judge Hoffman or I should consider what if anything further should be done in in this criminal case. That request was made, and Judge Haynsworth notified me of his conclusion that I should handle the matter. Promptly thereafter I requested the probation office of this court to recommend whether Agnew should be charged with violation of his probation. The request was assigned to Deputy Chief Probation Officer Falconer. Polur has publicly charged that the report of the Department of Justice was a "Republic whitewash." The court asked both Falconer and Kramer to determine whether the report had been approved by any member of the staff of the new, Democratic, Attorney General. Both have reported that it was so approved.

On March 14, 1977, after notice to Agnew's attorney and to Polur, a hearing was held for the purpose of deciding whether any further proceedings with respect to possible revocation of Agnew's probation was warranted. Three days before that hearing Polur filed in the United States Court of Appeals for the Fourth Circuit a petition for a writ of mandamus

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<sup>2/</sup> A copy of that report is attached hereto as Appendix A.

or a temporary stay to prohibit this court from holding that hearing. The senior judge of the panel to which that petition was referred agreed that this court should hold the hearing, but should delay decision until the Fourth Circuit rendered its decision on Polur's petition. On March 16 the Fourth Circuit denied the petition and directed the clerk to issue the mandate forthwith.

At the March 14 hearing in this court, Kramer presented the report of the Department of Justice dated February 18, 1977, recommending that no action be taken to revoke Agnew's probation, and a supplementary report, dated March 14, setting out in detail how the report had been developed. Kramer joined in the recommendation. Falconer, on behalf of the Probation Department, after describing the investigation he had made, recommended "that no citation for alleged violation of probation be ordered by the court." The court gave Polur an opportunity to express his views, and he did. Harrison, the attorney for Agnew, also made a brief statement and submitted a series of letters exchanged among Agnew and his attorneys, the University of Maryland and the State Department, dealing with the gifts received by Agnew; those letters offer little if any help to the court in deciding the present question.

The court concludes, on the basis of the material submitted in this proceeding,

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that it should follow the recommendations of the Department of Justice and the Probation Office, and should not require Agnew to show cause why his probation should not be revoked.

s/ Roszele C. Thomsen

---

Senior United States  
District Judge

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APPENDIX A

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

UNITED STATES OF AMERICA :

v. : CRIMINAL NO.

SPIRO T. AGNEW : 73-0535

- NOTICE OF HEARING -

On October 10, 1973, Spiro T. Agnew, the defendant herein, entered a plea of nolo contendere to one count of a criminal information charging him with evasion of federal income taxes in violation of 26 U.S.C. 7201. On the same day Judge Walter E. Hoffman, of the Eastern District of Virginia, sitting by designation, accepted that plea and imposed a sentence of a \$10,000 fine and three years unsupervised probation.

On September 30, 1976, Sam Polur, a member of the bar of New York, residing in Florida, filed a civil action in this court (T-76-1478) against Agnew and Education for Democracy, Inc., claiming substantial damages against each of them for alleged violations of several federal statutes. On October 5, 1976, Polur moved, in that civil case, for "an Order to Show Cause why Spiro T. Agnew should not have his probation revoked during the balance of the term thereof, prior to the expiration of the three year period of probation duly imposed upon the said Spiro T. Agnew by this Court on October 10, 1973." Polur based that motion on the allegations con-



tained in his civil complaint, and an "attorney's affirmation" in support of his motion.

The civil case was routinely assigned to me, and on October 8, 1976, a hearing was held on said motion, attended, at the court's request, by the Deputy United States Attorney and W. Lee Harrison, an attorney who appeared specially on behalf of Agnew. After hearing from Polur and the attorneys whom the court had requested to attend, the court read and filed the statement attached to this notice.

The court has now received the report and recommendations of the Department of Justice. A copy of that report is attached hereto, along with the letter of Deputy United States Attorney Kramer concurring in the report. Upon receipt thereof Judge Hoffman and I discussed the matter and agreed that we should ask Chief Judge Haynsworth of the United States Court of Appeals for the Fourth Circuit to decide whether Judge Hoffman or I should consider what if anything further should be done in this criminal case. Judge Haynsworth has now notified me of his conclusion that I should handle the matter.

Accordingly, this court has scheduled a hearing, at which the report of the Department of Justice will be considered and the court will decide whether a proba-

tion revocation hearing should be held. That hearing will be held on Monday, March 14, 1977, at 10 A.M., in courtroom 7B at the United States Courthouse, 101 W. Lombard Street, Baltimore, Maryland 21201.

s/Roszele C. Thomsen  
United States District  
Judge

March 3, 1977

copies to -

Paul R. Kramer, Esq., Deputy United States  
Attorney  
W. Lee Harrison, Esq.  
Mr. Francis P. Tunney, Chief U.S. Probation  
Officer  
Sam Polur, Esq.

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APPENDIX A

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

SAM POLUR :  
v. : CIVIL NO.  
SPIRO T. AGNEW and : T-76-1478  
EDUCATION FOR DEMOCRACY, INC. :

Sam Polur, pro se.  
W. Lee Harrison, appearing specially, for  
Spiro T. Agnew

- - -

See, text of this opinion and  
order as reprinted in full in the March  
22, 1977 opinion and order of Judge  
Thomsen, pages A-5 to A-7, supra.

(Opinion and Order of October  
8, 1976, Thomsen, Senior District  
Judge.)

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APPENDIX A

22 § 601

FOREIGN RELATIONS

Ch. 11

CHAPTER 11.—FOREIGN AGENTS AND PROPAGANDA

§ 611. Definitions

As used in and for the purposes of this subchapter—

(a) The term "person" includes an individual, partnership, association, corporation, organization, or any other combination of individuals;

(b) The term "foreign principal" includes—

(1) a government of a foreign country and a foreign political party;

(2) an individual affiliated or associated with, or supervised, directed, controlled, financed, or subsidized, in whole or in part, by any foreign principal defined in clause (1) of this subsection;

(3) a person outside of the United States, unless it is established that such person is an individual and is a citizen of and domiciled within the United States or that such person is not an individual, is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States, and has its principal place of business within the United States. Nothing in this clause shall limit the operation of clause (5) of this subsection;

(4) a partnership, association, corporation, organization, or other combination of individuals organized under the laws of, or having its principal place of business in, a foreign country;

(5) a domestic partnership, association, corporation, organization, or other combination of individuals, subsidized directly or indirectly, in whole or in part, by any foreign principal defined in clause (1), (3), or (4) of this subsection;

(6) A domestic partnership, association, corporation, organization, or other combination of individuals, supervised, directed, controlled, or financed, in whole or in substantial part, by any foreign government or foreign political party;

(c) Except as provided in subsection (d) of this section, the term "agent of a foreign principal" includes—

(1) any person who acts or agrees to act, within the United States, as, or who is or holds himself out to be whether or not pursuant to contractual relationship, a public-relations counsel, publicity agent, information-service employee, servant, agent,

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representative, or attorney for a foreign principal;

(2) any person who within the United States collects information for or reports information to a foreign principal; who within the United States solicits or accepts compensation, contributions, or loans, directly or indirectly, from a foreign principal; who within the United States solicits, disburses, dispenses, or collects compensation, contributions, loans, money, or anything of value, directly or indirectly, for a foreign principal; who within the United States acts at the order, request, or under the direction, of a foreign principal;

(3) any person who assumes or purports to act within the United States as an agent of a foreign principal in any of the respects set forth in clauses (1) and (2) of this subsection;

(4) any person who is an officer or member of the active or reserve military, naval, or other armed forces of any foreign principal defined in clause (1) of subsection (b) of this section, or who is an officer of or employed by any such foreign principal; and proof of any affiliation or employment, specified in this clause, of any person within a period of five years previous to the effective date of this subchapter shall create a rebuttable presumption that such person is an agent of a foreign principal; and

(5) Repealed. Aug. 1, 1956, c. 849, § 1, 70 Stat. 899.

(d) The term "agent of a foreign principal" does not include any news or press service or association organized under the laws of the United States or of any State or other place subject to the jurisdiction of the United States, or any newspaper, magazine, periodical, or other publication for which there is on file with the Postmaster General a sworn statement in compliance with section 233 of Title 39, published in the United States, solely by virtue of any bona fide news or journalistic activities, including the solicitation or acceptance of advertisements, subscriptions, or other compensation therefor, so long as it is at least 80 per centum beneficially owned by, and its officers and directors, if any, are citizens of the United States, and such news or press service or association, newspaper, magazine, periodical, or other publication, is not owned, directed, supervised, controlled, subsidized, or financed, and none of its policies are determined by any foreign principal defined in clause (1), (2), or (4) of subsection (b) of this section, or by any agent of a foreign principal required to register under this subchapter;

(e) The term "government of a foreign country" includes any person or groups of persons exercising sovereign de facto or de jure political jurisdiction over any country, other than the United States, or over any part of such country, and includes any subdivision of any such group and any group or agency to which such sovereign de facto or de jure authority or functions are directly or indirectly delegated. Such term shall include any faction or body of insurgents within a country assuming to exercise governmental authority whether such faction or body of insurgents has or has not been recognized by the United States;

(f) The term "foreign political party" includes any organization or any other combination of individuals in a country other than the United States, or any unit or branch thereof, having for an aim or purpose, or which is engaged in any activity devoted in whole or in part to, the establishment, administration, control, or acquisition of administration or control, of a government of a foreign country or a subdivision thereof, or the furtherance or influencing of the political or public interests, policies, or relations of a government of a foreign country or a subdivision thereof;

(g) The term "public-relations counsel" includes any person who engages directly or indirectly in informing, advising, or in any way representing a principal in any matter pertaining to political or public interests, policies, or relations;

(h) The term "publicity agent" includes any person who engages directly or indirectly in the publication or dissemination of oral, visual, graphic, written, or pictorial information or matter of any kind, including publication by means of advertising, books, periodicals, newspapers, lectures, broadcasts, motion pictures, or otherwise;

(i) The term "information-service employee" includes any person who is engaged in furnishing, disseminating, or publishing accounts, descriptions, information, or data with respect to the political, industrial, employment, economic, social, cultural, or other benefits, advantages, facts, or conditions of any country other than the United States or of any government of a foreign country or of a foreign political party or of a partnership, association, corporation, organization, or other combination of individuals organized under the laws of, or having its principal place of business in, a foreign country;

(j) The term "political propaganda" includes any oral, visual,



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graphic, written, pictorial, or other communication or expression by any person (1) which is reasonably adapted to, or which the person disseminating the same believes will, or which he intends to, prevail upon, indoctrinate, convert, induce, or in any other way influence a recipient or any section of the public within the United States with reference to the political or public interests, policies, or relations of a government of a foreign country or a foreign political party or with reference to the foreign policies of the United States or promote in the United States racial, religious, or social dissensions, or (2) which advocates, advises, instigates, or promotes any racial, social, political, or religious disorder, civil riot, or other conflict involving the use of force or violence in any other American republic or the overthrow of any government or political subdivision of any other American republic by any means involving the use of force or violence. As used in this subsection the term "disseminating" includes transmitting or causing to be transmitted in the United States mails or by any means or instrumentality of interstate or foreign commerce or offering or causing to be offered in the United States mails;

(k) The term "registration statement" means the registration statement required to be filed with the Attorney General under section 612(a) of this title, and any supplements thereto required to be filed under section 612(b) of this title, and includes all documents and papers required to be filed therewith or amendatory thereof or supplemental thereto, whether attached thereto or incorporated therein by reference;

(l) The term "American republic" includes any of the states which were signatory to the Final Act of the Second Meeting of the Ministers of Foreign Affairs of the American Republics at Habana, Cuba, July 30, 1940;

(m) The term "United States", when used in a geographical sense, includes the several States, the District of Columbia, the Territories, the Canal Zone, the insular possessions, and all other places now or hereafter subject to the civil or military jurisdiction of the United States;

(n) The term "prints" means newspapers and periodicals, books, pamphlets, sheet music, visiting cards, address cards, printing proofs, engravings, photographs, pictures, drawings, plans, maps, patterns to be cut out, catalogs, prospectuses, advertisements, and printed, engraved, lithographed, or autographed notices of various kinds, and,

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## FOREIGN RELATIONS

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in general, all impressions or reproductions obtained on paper or other material assimilable to paper, on parchment or on cardboard, by means of printing, engraving, lithography, autography, or any other easily recognizable mechanical process, with the exception of the copying press, stamps with movable or immovable type, and the typewriter. June 8, 1938, c. 327, § 1, 52 Stat. 631; Aug. 7, 1939, c. 521, § 1, 53 Stat. 1244; Apr. 29, 1942, c. 263, § 1, 56 Stat. 248; Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352; Sept. 23, 1950, c. 1024, Title I, § 20(a), 64 Stat. 1005; Aug. 1, 1956, c. 849, § 1, 70 Stat. 899; Oct. 4, 1961, Pub.L. 87-366, § 1, 75 Stat. 784.

§ 612. Registration statement; filing; contents

(a) No person shall act as an agent of a foreign principal unless he has filed with the Attorney General a true and complete registration statement and supplements thereto as required by this section and subsection (b) of this section or unless he is exempt from registration under the provisions of this subchapter. Except as hereinafter provided, every person who is an agent of a foreign principal on the effective date of this subchapter shall, within ten days thereafter and every person who becomes an agent of a foreign principal after the effective date of this subchapter shall, within ten days thereafter, file with the Attorney General, in duplicate, a registration statement, under oath, on a form prescribed by the Attorney General, of which one copy shall be transmitted promptly by the Attorney General to the Secretary of State for such comment, if any, as the Secretary of State may desire to make from the point of view of the foreign relations of the United States. Failure of the Attorney General so to transmit such copy shall not be a bar to prosecution under this subchapter. The obligation of an agent of a foreign principal to file a registration statement shall, after the tenth day of his becoming or acting as such agent, continue from day to day, and discontinuance of such activity shall not relieve such agent from his obligation to file a registration statement for the period during which he acted within the United States as an agent of a foreign principal. The registration statement shall include the following, which shall be regarded as material for the purposes of this subchapter:

(1) Registrant's name, principal business address, and all

## Ch. 11 FOREIGN AGENTS—PROPAGANDA 22 § 612

other business addresses in the United States or elsewhere, and all residence addresses, if any;

(2) Status of the registrant; if an individual, nationality; if a partnership, name, residence addresses, and nationality of each partner and a true and complete copy of its articles of copartnership; if an association, corporation, organization, or any other combination of individuals, the name, residence addresses, and nationality of each director and officer and of each person performing the functions of a director or officer and a true and complete copy of its charter, articles of incorporation, association, constitution, and bylaws, and amendments thereto; a copy of every other instrument or document and a statement of the terms and conditions of every oral agreement relating to its organization, powers, and purposes; and a statement of its ownership and control;

(3) A comprehensive statement of the nature of registrant's business; a complete list of registrant's employees and a statement of the nature of the work of each, unless, and to the extent, this requirement is waived in writing by the Attorney General; the name and address of every foreign principal for whom the registrant is acting, assuming or purporting to act or has agreed to act; the character of the business or other activities of every such foreign principal, and, if any such foreign principal be other than a natural person, a statement of the ownership and control of each; and the extent, if any, to which each such foreign principal is supervised, directed, owned, controlled, financed, or subsidized, in whole or in part, by any government of a foreign country or foreign political party;

(4) Copies of each written agreement and the terms and conditions of each oral agreement, including all modifications of such agreements, or, where no contract exists, a full statement of all the circumstances, by reason of which the registrant is an agent of a foreign principal; a comprehensive statement of the nature and method of performance of each such contract, and of the existing and proposed activity or activities engaged in or to be engaged in by the registrant as agent of a foreign principal for each such foreign principal;

(5) The nature and amount of contributions, income, money, or thing of value, if any, that the registrant has received within the preceding sixty days from each such foreign principal, either as compensation or for disbursement or otherwise, and the form

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## FOREIGN RELATIONS

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and time of each such payment and from whom received;

(6) A detailed statement of every activity which the registrant is performing or is assuming or purporting or has agreed to perform for himself or any other person other than a foreign principal and which requires his registration hereunder;

(7) The name, business, and residence addresses, and, if an individual, the nationality, of any person who has within the preceding sixty days contributed or paid money or anything of value to the registrant in connection with any of the activities referred to in clause (6) of this subsection and the amount or value of the same;

(8) A detailed statement of the money and other things of value spent or disposed of by the registrant during the preceding sixty days in furtherance of or in any way in connection with activities which require his registration hereunder and which have been undertaken by him either as an agent of a foreign principal or for himself or any other person;

(9) Copies of each written agreement and the terms and conditions of each oral agreement, including all modifications of such agreements, or, where no contract exists, a full statement of all the circumstances, by reason of which the registrant is performing or assuming or purporting or has agreed to perform for himself or for a foreign principal or for any person other than a foreign principal any activities which require his registration hereunder;

(10) Such other statements, information, or documents pertinent to the purposes of this subchapter as the Attorney General, having due regard for the national security and the public interest, may from time to time require;

(11) Such further statements and such further copies of documents as are necessary to make the statements made in the registration statement and supplements thereto, and the copies of documents furnished therewith, not misleading.

(b) Every agent of a foreign principal who has filed a registration statement required by subsection (a) of this section shall, within thirty days after the expiration of each period of six months succeeding such filing, file with the Attorney General a supplement thereto under oath, on a form prescribed by the Attorney General, which shall set forth with respect to such preceding six months' pe-



riod such facts as the Attorney General, having due regard for the national security and the public interest, may deem necessary to make the information required under this section accurate, complete, and current with respect to such period. In connection with the information furnished under clauses (3), (4), (6), and (9) of subsection (a) of this section, the registrant shall give notice to the Attorney General of any changes therein within ten days after such changes occur. If the Attorney General, having due regard for the national security and the public interest, determines that it is necessary to carry out the purposes of this subchapter, he may, in any particular case, require supplements to the registration statement to be filed at more frequent intervals in respect to all or particular items of information to be furnished.

(c) The registration statement and supplements thereto shall be executed under oath as follows: If the registrant is an individual, by him; if the registrant is a partnership, by the majority of the members thereof; if the registrant is a person other than an individual or a partnership, by a majority of the officers thereof or persons performing the functions of officers or by a majority of the board of directors thereof or persons performing the functions of directors, if any.

(d) The fact that a registration statement or supplement thereto has been filed shall not necessarily be deemed a full compliance with this subchapter and the regulations thereunder on the part of the registrant; nor shall it indicate that the Attorney General has in any way passed upon the merits of such registration statement or supplement thereto; nor shall it preclude prosecution, as provided for in this subchapter, for willful failure to file a registration statement or supplement thereto when due or for a willful false statement of a material fact therein or the willful omission of a material fact required to be stated therein or the willful omission of a material fact or copy of a material document necessary to make the statements made in a registration statement and supplements thereto, and the copies of documents furnished therewith, not misleading.

(e) If any agent of a foreign principal, required to register under the provisions of this subchapter, has previously thereto registered with the Attorney General under the provisions of sections 14-17 of Title 18, the Attorney General, in order to eliminate inappropriate duplication, may permit the incorporation by reference in

the registration statement or supplements thereto filed hereunder of any information or documents previously filed by such agent of a foreign principal under the provisions of said sections. June 8, 1938, c. 327, § 2, 52 Stat. 632; Apr. 29, 1942, c. 263, § 2, 56 Stat. 251; Aug. 3, 1950, c. 524, § 1, 64 Stat. 399.

### § 613. Exemptions

The requirements of section 612(a) of this title shall not apply to the following agents of foreign principals:

(a) A duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, while said officer is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such officer;

(b) Any official of a foreign government, if such government is recognized by the United States, who is not a public-relations counsel, publicity agent, information-service employee, or a citizen of the United States, whose name and status and the character of whose duties as such official are of public record in the Department of State, while said official is engaged exclusively in activities which are recognized by the Department of State as being within the scope of the functions of such official;

(c) Any member of the staff of, or any person employed by, a duly accredited diplomatic or consular officer of a foreign government who is so recognized by the Department of State, other than a public-relations counsel, publicity agent, or information-service employee, whose name and status and the character of whose duties as such member or employee are of public record in the Department of State, while said member or employee is engaged exclusively in the performance of activities which are recognized by the Department of State as being within the scope of the functions of such member or employee;

(d) Any person engaging or agreeing to engage only in private and nonpolitical financial or mercantile activities in furtherance of the bona fide trade or commerce of such foreign principal or in the soliciting or collecting of funds and contributions within the United States to be used only for medical aid and assistance, or for food and



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clothing to relieve human suffering, if such solicitation or collection of funds and contributions is in accordance with and subject to the provisions of sections 441, 444, 445 and 447-457 of this title, and such rules and regulations as may be prescribed thereunder;

(e) Any person engaging or agreeing to engage only in activities in furtherance of bona fide religious, scholastic, academic, or scientific pursuits or of the fine arts;

(f) Any person, or employee of such person, whose foreign principal is a government of a foreign country the defense of which the President deems vital to the defense of the United States while, (1) such person or employee engages only in activities which are in furtherance of the policies, public interest, or national defense both of such government and of the Government of the United States, and are not intended to conflict with any of the domestic or foreign policies of the Government of the United States, (2) each communication or expression by such person or employee which he intends to, or has reason to believe will, be published, disseminated, or circulated among any section of the public, or portion thereof, within the United States, is a part of such activities and is believed by such person to be truthful and accurate and the identity of such person as an agent of such foreign principal is disclosed therein, and (3) such government of a foreign country furnishes to the Secretary of State for transmittal to, and retention for the duration of this subchapter by, the Attorney General such information as to the identity and activities of such person or employee at such times as the Attorney General may require. Upon notice to the Government of which such person is an agent or to such person or employee, the Attorney General, having due regard for the public interest and national defense, may, with the approval of the Secretary of State, and shall, at the request of the Secretary of State, terminate in whole or in part the exemption herein of any such person or employee. June 8, 1938, c. 327, § 3, 52 Stat. 632; Aug. 7, 1939, c. 521, § 2, 53 Stat. 1245; Apr. 29, 1942, c. 263, § 3, 56 Stat. 254; Oct. 4, 1961, Pub.L. 87-366, § 2, 75 Stat. 784.

### § 614. Filing and labeling of political propaganda

(a) Every person within the United States who is an agent of a foreign principal and required to register under the provisions of this subchapter and who transmits or causes to be transmitted in the

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United States mails or by any means or instrumentality of interstate or foreign commerce any political propaganda (i) in the form of prints, or (ii) in any other form which is reasonably adapted to being, or which he believes will be, or which he intends to be, disseminated or circulated among two or more persons shall, not later than forty-eight hours after the beginning of the transmittal thereof, send to the Librarian of Congress two copies thereof and file with the Attorney General one copy thereof and a statement, duly signed by or on behalf of such agent, setting forth full information as to the places, times, and extent of such transmittal.

(b) It shall be unlawful for any person within the United States who is an agent of a foreign principal and required to register under the provisions of this subchapter to transmit or cause to be transmitted in the United States mails or by any means or instrumentality of interstate or foreign commerce any political propaganda (i) in the form of prints, or (ii) in any other form which is reasonably adapted to being, or which he believes will be or which he intends to be, disseminated or circulated among two or more persons, unless such political propaganda is conspicuously marked at its beginning with, or prefaced or accompanied by, a true and accurate statement, in the language or languages used in such political propaganda, setting forth that the person transmitting such political propaganda or causing it to be transmitted is registered under this subchapter with the Department of Justice, Washington, District of Columbia, as an agent of a foreign principal, together with the name and address of such agent of a foreign principal and of each of his foreign principals; that, as required by this subchapter, his registration statement is available for inspection at and copies of such political propaganda are being filed with the Department of Justice; and that registration of agents of foreign principals required by the subchapter does not indicate approval by the United States Government of the contents of their political propaganda. The Attorney General, having due regard for the national security and the public interest, may by regulation prescribe the language or languages and the manner and form in which such statement shall be made and require the inclusion of such other information contained in the registration statement identifying such agent of a foreign principal and such political propaganda and its sources as may be appropriate.

(c) The copies of political propaganda required by this subchapter to be sent to the Librarian of Congress shall be available for public inspection under such regulations as he may prescribe.

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(d) For purposes of the Library of Congress, other than for public distribution, the Secretary of the Treasury and the Postmaster General are authorized, upon the request of the Librarian of Congress, to forward to the Library of Congress fifty copies, or as many fewer thereof as are available, of all foreign prints determined to be prohibited entry under the provisions of section 1305 of Title 19 and of all foreign prints excluded from the mails under authority of section 343 of Title 18.

Notwithstanding the provisions of section 1305 of Title 19 and of section 343 of Title 18, the Secretary of the Treasury is authorized to permit the entry and the Postmaster General is authorized to permit the transmittal in the mails of foreign prints imported for governmental purposes by authority or for the use of the United States or for the use of the Library of Congress. June 8, 1938, c. 327, § 4, 52 Stat. 632; Aug. 7, 1939, c. 521, § 3, 53 Stat. 1246; Apr. 29, 1942, c. 263, § 1, 56 Stat. 255.

## § 615. Books and records

Every agent of a foreign principal registered under this subchapter shall keep and preserve while he is an agent of a foreign principal such books of account and other records with respect to all his activities, the disclosure of which is required under the provisions of this subchapter, as the Attorney General, having due regard for the national security and the public interest, may by regulation prescribe as necessary or appropriate for the enforcement of the provisions of this subchapter and shall preserve the same for a period of three years following the termination of such status. Until regulations are in effect under this section every agent of a foreign principal shall keep books of account and shall preserve all written records with respect to his activities. Such books and records shall be open at all reasonable times to the inspection of any official charged with the enforcement of this subchapter. It shall be unlawful for any person willfully to conceal, destroy, obliterate, mutilate, or falsify, or to attempt to conceal, destroy, obliterate, mutilate, or falsify, or to cause to be concealed, destroyed, obliterated, mutilated, or falsified, any books or records required to be kept under the provisions of this section. June 8, 1938, c. 327, § 5, 52 Stat. 633; Apr. 29, 1942, c. 263, § 1, 56 Stat. 256.

## § 616. Public examination of official records

The Attorney General shall retain in permanent form one copy of all registration statements and all statements concerning the distribution of political propaganda furnished under this subchapter, and the same shall be public records and open to public examination and inspection at such reasonable hours, under such regulations, as the Attorney General may prescribe, and copies of the same shall be furnished to every applicant at such reasonable fee as the Attorney General may prescribe. The Attorney General may withdraw from public examination the registration statement and other statements of any agent of a foreign principal whose activities have ceased to be of a character which requires registration under the provisions of this subchapter. June 8, 1938, c. 327, § 6, 52 Stat. 633; Apr. 29, 1942, c. 263, § 1, 56 Stat. 256.

## § 617. Liability of officers

Each officer, or person performing the functions of an officer, and each director, or person performing the functions of a director, of an agent of a foreign principal which is not an individual shall be under obligation to cause such agent to execute and file a registration statement and supplements thereto as and when such filing is required under subsections (a) and (b) of section 612 of this title and shall also be under obligation to cause such agent to comply with all the requirements of sections 614(a) and (b) and 615 of this title and all other requirements of this subchapter. Dissolution of any organization acting as an agent of a foreign principal shall not relieve any officer, or person performing the functions of an officer, or any director, or person performing the functions of a director, from complying with the provisions of this section. In case of failure of any such agent of a foreign principal to comply with any of the requirements of this subchapter, each of its officers, or persons performing the functions of officers, and each of its directors, or persons performing the functions of directors, shall be subject to

prosecution therefor. June 8, 1938, c. 327, § 7, 52 Stat. 633; Apr. 29, 1942, c. 263, § 1, 56 Stat. 256; Aug. 3, 1950, c. 524, § 2, 64 Stat. 400.



## § 618. Enforcement and penalties

### (a) Any person who—

(1) willfully violates any provision of this subchapter or any regulation thereunder, or

(2) in any registration statement or supplement thereto or in any statement under section 614(a) of this title concerning the distribution of political propaganda or in any other document filed with or furnished to the Attorney General under the provisions of this subchapter willfully makes a false statement of a material fact or willfully omits any material fact required to be stated therein or willfully omits a material fact or a copy of a material document necessary to make the statements therein and the copies of documents furnished therewith not misleading, shall, upon conviction thereof be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both.

(b) In any proceeding under this subchapter in which it is charged that a person is an agent of a foreign principal with respect to a foreign principal outside of the United States, proof of the specific identity of the foreign principal shall be permissible but not necessary.

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(c) Any alien who shall be convicted of a violation of, or a conspiracy to violate, any provision of this subchapter or any regulation thereunder shall be subject to deportation in the manner provided by sections 1251-1253 of Title 8.

(d) The Postmaster General may declare to be nonmailable any communication or expression falling within clause (2) of section 611 (j) of this title in the form of prints or in any other form reasonably adapted to, or reasonably appearing to be intended for, dissemination or circulation among two or more persons, which is offered or caused to be offered for transmittal in the United States mails to any person or persons in any other American republic by any agent of a foreign principal, if the Postmaster General is informed in writing by the Secretary of State that the duly accredited diplomatic representative of such American republic has made written representation to the Department of State that the admission or circulation of such communication or expression in such American republic is prohibited by the laws thereof and has requested in writing that its transmittal

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thereto be stopped.

(e) Failure to file any such registration statement or supplements thereto as is required by either section 612(a) or section 612(b) of this title shall be considered a continuing offense for as long as such failure exists, notwithstanding any statute of limitation or other statute to the contrary. June 8, 1938, c. 327, § 8, as added Apr. 29, 1942, c. 263, § 1, 56 Stat. 257, and amended Sept. 23, 1950, c. 1924, Title I, § 20, 64 Stat. 1005; June 27, 1952, c. 477, Title IV, § 402(d), 66 Stat. 414; Aug. 1, 1956, c. 849, § 1, 70 Stat. 899.

## § 619. Territorial applicability of subchapter

This subchapter shall be applicable in the several States, the District of Columbia, the Territories, the Canal Zone, the insular possessions, and all other places now or hereafter subject to the civil or military jurisdiction of the United States. June 8, 1938, c. 327, § 9, as added Apr. 29, 1942, c. 263, § 1, 56 Stat. 257, and amended Proc. No. 2695, July 4, 1946, 11 F.R. 7517, 60 Stat. 1352.

## § 620. Rules and regulations

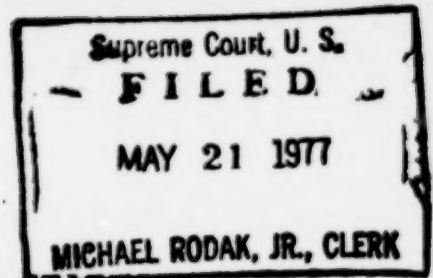
The Attorney General may at any time make, prescribe, amend, and rescind such rules, regulations, and forms as he may deem necessary to carry out the provisions of this subchapter. June 8, 1938, c. 327, § 10, as added Apr. 29, 1942, c. 263, § 1, 56 Stat. 257.

## § 621. Reports to Congress

The Attorney General shall, from time to time, make a report to the Congress concerning the administration of this subchapter, including the nature, sources, and content of political propaganda disseminated or distributed. June 8, 1938, c. 327, § 11, as added Apr. 29, 1942, c. 263, § 1, 56 Stat. 258.

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In the  
SUPREME COURT OF THE UNITED STATES

October Term, 1977

No. 76-1840

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SAM POLUR,

Petitioner,

v

HONORABLE ROSZELE C. THOMSEN,

Respondent,

and

UNITED STATES COURT OF APPEALS FOR THE  
FOURTH CIRCUIT

---

ON WRIT OF CERTIORARI OR WRIT OF  
MANDAMUS TO THE UNITED STATES COURT  
OF APPEALS, AND TO THE UNITED STATES  
DISTRICT COURT FOR THE DISTRICT OF  
MARYLAND

---

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PETITION FOR CERTIORARI OR WRIT OF  
MANDAMUS FILED MAY 20, 1977

APPENDIX "B"

In the  
SUPREME COURT OF THE UNITED STATES

October Term, 1977

No. \_\_\_\_\_

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SAM POLUR,

Petitioner,

v

HONORABLE ROSZELE C. THOMSEN,  
Respondent,

and

UNITED STATES COURT OF APPEALS FOR THE  
FOURTH CIRCUIT

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ON WRIT OF CERTIORARI OR WRIT OF  
MANDAMUS TO THE UNITED STATES COURT  
OF APPEALS, AND TO THE UNITED STATES  
DISTRICT COURT FOR THE DISTRICT OF  
MARYLAND

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PETITION FOR CERTIORARI OR WRIT OF  
MANDAMUS FILED MAY 20, 1977

APPENDIX "B"

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APPENDIX B

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND

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SAM POLUR, Plaintiff, :  
vs : No.76-T-  
SPIRO T. AGNEW and EDUCATION FOR : 1478Civ.  
DEMOCRACY, INC., Defendants. :  
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Before:

Hon. Roszel C. Thomsen,  
Senior District Judge

Baltimore, Maryland  
October 8, 1976-12:p.m.

APPARANCES:

By: Paul R. Kramer, Esq.  
Deputy United States Attorney

Robert Glynn, Esq.  
Larry Gregg, Esq.  
Assistant Deputy Attorneys General

W. Lee Harrison, Esq.  
Attorney for Defendants

Sam Polur, Esq.  
Attorney Pro Se

TRANSCRIPT OF HEARING OF OCTOBER 8, 1976.

P R O C E E D I N G S

THE COURT: This case, entitled Sam Polur versus Spiro T. Agnew and Education for Democracy, Incorporated, is before the Court at this time on a request of the Plaintiff for an order to show cause why Spiro T. Agnew should not have his probation revoked for violation of the court order.

That paper was filed on October 5th, 1976. Mr. Polur delivered a copy of it to the United States Attorney's office and delivered a copy to W. Lee Harrison, Esquire, pursuant to a statement by Mr. Agnew that delivery of the paper to Mr. Harrison would constitute notice to him of the filing of the motion for the order and of the time for the hearing thereon, but that Mr. Harrison had no authority to accept service of process on him in this case. Is that a fair statement?

MR. POLUR: Absolutely accurate.

THE COURT: As far as everything is concerned?

MR. HARRISON: Yes, Your Honor. Yes, sir.

THE COURT: All right. I guess you have the laboring oar, Mr. Polur.

MR. POLUR: Thank you. At the very outset, Your Honor, I'd like very much

just to thank the Court, for the record, for the courtesy and dispatch with which the Court handled this, whatever the outcome.

I very respectfully submit, Your Honor, at the very outset, that the probation itself was a nullity; that Mr. Spiro Agnew, standing before this Court -- the Honorable Walter E. Hoffman, Judge, presiding -- was committing an act, illegal in terms of the federal judiciary, in that at the very time he was told by the Judge you will not, during this probation, Mr. Agnew, violate any federal -- state or federal law, Mr. Agnew did not tell the Court that he had received in 1971 very expensive and valuable gifts from the King of Saudi Arabia, the Crown Prince of Saudi Arabia, and the King of Morocco; and that contrary to the law and the statutes providing, he did not turn them in immediately and forthwith as the law commands. He did not, in fact, turn these gifts in to the State Department, according to the New York Times and other respectable press, until April 1, 1974, almost six months subsequent to that probation. So, at the very outset, as a matter of law, I maintain that that probation was a nullity because perhaps Judge Hoffman would not have granted probation under the circumstances. And, therefore, I think, very respectfully, this Court has jurisdiction because that was a nullity, as a matter of law.

Second, Your Honor, speaking directly

to the issue of --

THE COURT: Did you brief that --

MR. POLUR: Yes, sir.

THE COURT: --fully in your brief?

MR. POLUR: Yes, sir, Your Honor, on page 3. And the case cited there is Trueblood Long Knife versus United States, 381 F.2d 17, Ninth Circuit. It's authority for the proposition that a probation granted as a result of a fraudulent concealment may be revoked in the absence of any post-probation violation. Then, citing a Fourth Department case, among others, Acme Poultry Corporation vs. United States, 146 F.2d 733.

So I think this Circuit adheres to that law, Your Honor. It's on pages 3 and 4. Now, affirmatively, Your Honor, I cited what I believe to be the -- the dispositive case in the United States. I Shepardized it and unless I'm in error it has never been overruled, it's still the law -- Buhler v. --

THE COURT: In the first place, what jurisdiction does this Court have in this civil case to take such action? That's what I think we've got to come to and I think it would apply to this Court, in a civil damage suit that you have brought against Mr. Agnew, declaring that his probation was a nullity. It would seem to me that that would have to be brought in the proceedings in which he was a defendant and which was being prosecuted by the United States.

Now, we have here, I notice, the Deputy United States Attorney or do they call you First Assistant?

MR. KRAMER: Deputy, Your Honor.

THE COURT: Deputy United States Attorney, and he seems to be accompanied by some faces I don't know and I wouldn't be surprised if they came from Washington. Is that correct?

MR. KRAMER: Yes, sir, Your Honor. Mr. Robert Glynn and Mr. Larry Gregg of the Department of Justice. And if I may, Your Honor, the Government's presence here is only occasioned by the fact that one, we were given the documents and we're not a party and do not intend to become a party if at all possible.

THE COURT: You mean to the civil case.

MR. KRAMER: To the civil case.

THE COURT: You're not a party.

MR. KRAMER: Yes. and, secondly, that it's my understanding Your Honor requested the presence of the representatives from the Department of Justice in these proceedings and we have no position whatsoever, one way or the other, in these proceedings. We're here to assist the Court, if the Court has any questions.

MR. POLUR: Your Honor, speaking very responsively to the fundamental issue you



just raised, I cite Buhler v. Pescor, 63 Federal Supp. 632 at page 639. I'd like to read a very brief statement of that. I think it's four square on point with this case, Your Honor. It's found on pages 3 and 4 of this brief. "There are two District Judges of the United States District Court for the Middle District of Pennsylvania, 28 U.S.C.A., Section 1 Note: A United States District Court, having more than one judge, is but a single court. Actions are begun in that court and not before a particular judge thereof. Each judge of said court has jurisdiction over causes pending therein. A judge of one branch of such court may hear and determine a cause, pending in another branch, or make orders in connection therewith where a rule of court or necessity therefor exists."

THE COURT: Well, of course, Now some of the districts have divisions. But we have no divisions in Maryland. But that does not say that there is no difference between a civil case and a criminal case.

MR. POLUR: No, Your Honor, but in this case there is no mention of decision. Now, I read that case thoroughly. I cited it.

THE COURT: I'm prepared to rule right now that you are not before me in the criminal case. You are before me in the civil case.

MR. POLUR: Your Honor, two things happen here that I think are very germane to the issue. First, I went to the Clerk of this court and said I am prepared to

file an order to show cause why Mr. Agnew's probation should not be revoked. I wanted to go before Judge Walter E. Hoffman, who sentenced Mr. Agnew. I was told Judge Hoffman is in private practice, is no longer a judge of the court.

THE COURT: Of course --

MR. POLUR: And then I was referred to you.

THE COURT: I'm sure our clerk didn't tell you that because Judge Hoffman is not in private practice. He is still a judge, a senior judge of the United States District Court of the Eastern District of Virginia and is presently the Director of the Federal Judicial Center in Washington.

MR. POLUR: Well, I apologize, your Honor.

THE COURT: He devotes part of his time --that is an appointment which has been held by only three people, Justice Tom Clark, Circuit Judge Murrah, and Judge Hoffman, District Judge Hoffman, all of them in their positions as senior judges or justices of the United States.

MR. POLUR: Well, I apologize, Your Honor. I was told by -- I read it in the paper. It was told by the clerk that I couldn't appear before him because he wasn't sitting here and I was told he was from Virginia. I apologize, your Honor, but I read that he was no longer practicing.

THE COURT: That's all right.

MR. POLUR: It was referred to this Court.

THE COURT: Well, I think the law -- again, I think the law is perfectly clear that any judge of the court, whether it's the man who heard it or not, has a right to take certain affirmative action in the criminal case.

MR. POLUR: That's fair enough.

THE COURT: But this is -- what I'm hearing today is a motion filed in the civil case and which was routinely assigned to me.

MR. POLUR: Well, Your Honor, I --

THE COURT: All right.

MR. POLUR: I would very respectfully like to speak to that further. I was told by the Clerk of the court that this order to show cause should appear before this Court and that's what I did when I learned about Judge Hoffman.

THE COURT: In this case? In the civil case?

MR. POLUR: In this case, Your Honor.

THE COURT: Well, I don't know what clerk told you that but I can't believe a clerk told you that. And if he did,

you have given me a considerable index of your legal training, writings and so forth. I gather you are an experienced lawyer, and I would think you would know the difference between a civil case and a criminal case.

MR. POLUR: I certainly do, Your Honor. Your Honor, I do wish again to point out page 4, the bottom, the second line in the case I cited, Buhler v. Pescor, that I say is on four square with this and I respect Your Honor's judgment on that already, but it says "or necessity therefor exists." And I maintain that in view of the fact and the facts that I recited, the necessity does exist. And if I may read it into the record, Your Honor --

THE COURT: That is on what page?

MR. POLUR: Page 4.

THE COURT: You mean about the --

MR. POLUR: The Buhler v. Pescor case.

THE COURT: There isn't any question that I have -- I think there is no question that I have jurisdiction not only of this civil case but that I have jurisdiction to act in the criminal case. Any judge of the court can act, subject to the way cases are assigned in our court.

MR. POLUR: Yes, sir, Your Honor. Well, that's -- I appreciate that statement.



THE COURT: If something is to be done in the criminal case, I do not know whether Judge Hoffman's assignment to this court for the purpose of the case has expired or not. I don't know whether Judge Hoffman is -- would want to come back here anyhow or he would prefer that I continue with it. I tried to get him this morning on the phone after I had read the briefs, had a chance to read the briefs, and he was unavailable. The case he was on is what, from somewhere to somewhere and couldn't be reached. But there is no question that a judge of this court has power in the criminal case to issue a warrant of arrest. There is no question about that.

MR. POLUR: All right. And to revoke probation.

THE COURT: I think a judge has no power to issue a show cause order -- show cause why he should not have his probation revoked -- a judge has no power to issue such an order in a damage suit which you have filed against Mr. Agnew and Education for Democracy, because in this civil suit you are seeking damages in that case.

MR. POLUR: That is correct, Your Honor. I would respectfully state to the Court that again my reading of the -- I differ very respectfully with the Court.

THE COURT: You think that in a damage suit you have a right --

MR. POLUR: That an order to show cause

which must be filed, together with a complaint, can't just be in a vacuum.

THE COURT: I didn't say it can't be filed with a complaint. You filed a complaint in a civil case and then you filed this order to show cause in the civil case. You filed this request I guess you called the order to show cause, but it is, in effect, a request for an order to show cause.

MR. POLUR: Until it's been signed it is, yes, Your Honor.

THE COURT: But I don't see how it could possibly be granted in a damage suit.

MR. POLUR: Well, Your Honor, will all due respect, I believe there are two basis for it: first, I cannot file an order to show cause, a proposed motion for an order to show cause in a vacuum. It has to be annexed to a suit. Now, whether this is the proper one or not, I don't think is completely relevant in this respect. A federal court has the power, Your Honor, not only to grant exemptions, but I believe a federal court has the power in a case of compelling nature, of national interest, to sign an order to show cause of this magnitude, Your Honor. I very respectfully believe you have that power and authority.

THE COURT: In the criminal case. I have the power in the criminal case to issue a warrant for his arrest. And I suppose I have authority, besides issuing the warrant,



to bring him in by more or less forceful means. But I undoubtedly have the power to issue a warrant for his arrest. Are you familiar at all with the procedures which are usually followed in revocation of probation cases?

MR. POLUR: I have never had that personally happen, but I have read extensively on it.

THE COURT: Well, what happens ordinarily is that if a man is, any defendant, is under probation supervision routinely the probation officer brings the matter to the attention of the Court by -- on a printed form which is supplied by the Administrative Office saying that, in effect, there's been a violation of probation. I think I have got one of the forms here for a probation officer presenting an official report on the conduct and attitude of the probationer. It's titled in the criminal case generally.

MR. POLUR: Yes, sir, I'm aware of that.

THE COURT: And without reading the dates and so forth, "I respectfully present a petition for action to the Court as follows:" and then he states what has happened and prays that the Court will do something which may be -- usually I think is the issue of a warrant to bring him in to decide what should be done or request information to revoke or a request or whatever it is. Now, that is the way they're ordinarily brought.

It is true, since there is no pro-

bation officer in this case, unless Mr. Harrison can persuade me to the contrary, I think a judge has the power to act on matters, to take action on matters, upon the presentation of appropriate facts to the Court which the Court has reason to believe should be acted on.

MR. POLUR: Well, Your Honor, thank you very much. That is precisely my point, Your Honor. There is no probation officer in this matter because Mr. Agnew -- and I understand it and I don't object to Attorney General Richardson's view that the interests of the United States was such that with a President faltering and about to possibly resign or be impeached, we couldn't have the country in a turmoil. And I read very carefully Attorney General Richardson's statement and Judge Hoffman's statement that because of the extraordinary circumstances the probation was granted and jail was not imposed. That is according to Judge Hoffman.

And since Attorney General Richardson and Judge Hoffman took this extraordinary step, Your Honor, I respectfully state that this Court ought to take the equally perhaps extraordinary step to listen to these arguments, to read the persuasive aspects of my pleadings, and --

THE COURT: I've read every word of your complaint, every word of your proposed order and of the exhibits attached to it. I have had three days to do it and have accomplished the feat.

MR. POLUR: I never doubted it, Your Honor. I didn't mean to doubt it either. But, Your Honor, based on the extraordinary fact I have no probation officer in the case, there is none, based on the further extraordinary fact that I served pursuant to your Honor's instructions the United States Attorney on the fourth floor of this very court room and that the distinguished representative of the Department of Justice tells us that he is not prepared to act on this matter -- I think that's what we heard this morning --

MR. KRAMER: No, sir.

THE COURT: I didn't hear it. I have not heard anything from him except that he's here. I said I wanted some representative of the Department of Justice to be here.

MR. POLUR: Yes.

THE COURT: And they are here.

MR. POLUR: Yes, and I thank Your Honor for that. I think it's very worthy, praise-worthy. But I understood you to say -- Your Honor, the fact is the United States Attorney having received these pleadings pursuant to the order of this Court, I say first, there is a waiver of any -- as a matter of law, Your Honor, -- I believe there might be a waiver in that the United States --

THE COURT: By your --

MR. POLUR: Of any --

THE COURT: -- delivering them to the United States Attorney of a paper in this case is a waiver of what?

MR. POLUR: Your Honor, the show cause order had an affirmation and it recites a steady set of facts that I believe Mr. Agnew clearly violated the order of probation.

THE COURT: I understand.

MR. POLUR: Now, Whether that has been demonstrated --

THE COURT: I understand. You have brought these statements, your "statements" to my attention.

MR. POLUR: That's right.

THE COURT: And I recognize that those "statements" have been brought to my attention. I do not yet -- recognize them as facts or --

MR. POLUR: Yes.

THE COURT: Of course, I recognize that the disbarment is a fact. But it is perfectly clear that the disbarment proceedings couldn't conceivably in my mind be a ground for revoking his probation because they dealt with things he did before he was convicted and before he was put on probation. So that although they say they criticise his acts, his conduct, then, as many other people have done, they are no basis for the



revocation of probation because they don't deal with facts which have occurred during the period of probation, which is the only ground on which a judge may revoke probation, as I understand the law.

MR. POLUR: I would concur, Your Honor, except, if I may, -- two things happened. One, the earlier statement I made about the fact that he had not told Judge Hoffman of his receipt of those valuable gifts.

THE COURT: Well, that is --

MR. POLUR: And he had not turned them in. As a matter of law I think that's -- as a matter of fact, I think it's provable, it's demonstrated, and I believe as a matter of law that may well be a violation of probation.

THE COURT: I don't think that it's going to make much difference whether he told Judge Hoffman. He didn't turn them in the next day or the following day. He didn't turn them in, according to your allegations, for nearly six months. And if he had a continuing duty to turn them in, that I suppose is a matter which might be considered by the Court in connection with whether there should be a revocation of his probation and not on the basis of revoking the original judge's sentence.

I think Judge Hoffman had information about various things. A 40 page statement had been made available to him, had it not?

MR. KRAMER: Yes, sir.

THE COURT: So that he had knowledge of the other matters with which he could have been charged and so that -- Judge Hoffman was aware not only of the offense of which he was charged and to which he plead nolo, but he was aware of the facts -- or the statements, I scratch facts -- of the statements contained in the 40 page statement --

MR. POLUR: Yes.

THE COURT: -- which -- I don't know whether you've ever read it, but it was a matter of gifts.

MR. POLUR: Yes. I read it in the New York Times, Your Honor.

Your Honor, I'll make a second point that I think is perhaps more significant in view of Your Honor's very lucid statement as to jurisdiction. I respectfully contend that as a civil matter, this order to show cause lies because I have asked Mr. Agnew, pursuant to that order, if it was signed, to show cause why a man who has sat in the National Security Council and is privy to all the or to a great many top secrets of the United States of America, under what authority he has to deal with foreign powers, receiving valuable gifts that he doesn't turn in, and never, under oath, say he has not received many more valuable gifts. Your Honor, we don't know that that is all he received. That is a civil matter, Your Honor.



THE COURT: All right. But you're bringing that in a case in which you are trying to collect more than a million dollars from him. And there are allegations which have not yet been proved. And this isn't your coming to the Court and saying I have some information which as a public citizen I think you ought to consider. You've come to the Court and said I want a million dollars for myself and that is a very different case from coming to the Court and delivering information to the Court.

MR. POLUR: Your Honor, I will be pleased to strike the damage request, to make it one dollar. The money isn't my primary motive, Your Honor. If that's going to help the Court --

THE COURT: Why did you ask for a million dollars if money wasn't your motive?

MR. POLUR: That's punitive damages, Your Honor. I think I'm entitled and I have asked for it.

THE COURT: And you have sued for?

MR. POLUR: \$25,000 compensatory damages.

THE COURT: You asked for that in various counts. The questions on the antitrust count in your complaint you asked for \$25,000 to be trebled, that would be \$75,000. And on other counts you asked for other sums -- so your suit against him is a suit to collect damages.

MR. POLUR: That's true, Your Honor.

THE COURT: That is the relief that is asked for, so far as I believe, that is the --

MR. POLUR: That's the gravamen of my complaint, Your Honor.

THE COURT: And, so far as I can see, that is, the only thing you asked for is damages.

MR. POLUR: All right. Your Honor, I would --

THE COURT: That doesn't mean that the Court having received, having read your allegations doesn't have to consider what my duty is in the premises, in view of those allegations.

MR. POLUR: Thank you very kindly, Your Honor. That's a statement that I respectfully receive and I do believe, Your Honor, that in view of that statement, that the civil aspects of the order to show cause, which deals with the inherent sovereignty and the protection of the United States, should be ever present to this Court and I am sure it is. And, as the Supreme Court of the United States has said in a landmark case of the Communist Party of the United States vs. Subversive Activities Control Board, 367 U.S. 1, "Self-preservation is a high prerogative of any sovereignty. Security against foreign danger is one of the primitive objects of civil society."

wrote James Madison in the Fortieth Federalist Papers and he continued, "It is an avowed and essential object of the American Union."

In view of that Federal Court of Appeals case, Your Honor, I respectfully would request the Court to consider very seriously my allegations that a man who has been disbarred, a man who resigned under an area where he was totally discredited, a man who pleaded nolo contendere and is a convicted felon, I question whether this Court doesn't have the duty, in view of the self-preservation of the prerogative of our sovereign United States of America, to protect the country in that I have alleged and I think it's easily demonstrable, Your Honor, that Mr. Agnew has received valuable emoluments and gifts from these foreign Arab countries. He has not reported them, Your Honor.

THE COURT: But he has reported them and turned them in, hasn't he, in late --

MR. POLUR: No, he has not --

THE COURT: Do you allege that -- don't you allege that half a dozen of them, maybe five or six, whatever it is, and you state that he did not turn them in until some date which was about six months or nearly six months after he was -- after the proceedings in this court.

MR. POLUR: I agree, Your Honor.

THE COURT: Have I summarized your complaint accurately?

MR. POLUR: Accurately. Your Honor, I'm going beyond that and saying that subsequent -- during the three years of probation, subsequent to April 1, 1974, when he did turn in some gifts -- I don't know how many he still has. Nobody does. I maintain, Your Honor, that in view of that, in view of his disreputable record as a citizen, it's a matter of record that he received gift food parcels every week, Your Honor, without paying for it while he was Vice President of the United States. I maintain as a citizen, Your Honor, that this Court, the inherent jurisdiction of this Court, Your Honor --

THE COURT: That's done by an act of Congress, wasn't it? Isn't that pursuant to an act of Congress is he's getting food? Isn't he getting food packages?

MR. POLUR: Oh, no, Your Honor. NO. He got them from a private American food chain for 15 years. He admitted receiving these food parcels without payment thereof and I am maintaining, Your Honor --

THE COURT: Does that violate the law? Is that in this complaint?

MR. POLUR: Yes, it is a civil violation.

THE COURT: Is that in this complaint?

MR. POLUR: Yes, it is, Your Honor. I don't know if it's in the complaint. It's in the show cause order, Your Honor. It's not in the complaint, no. It's in the order



to show cause in the civil --

THE COURT: If it's in the order to show cause, am I supposed to be finding things or calling for something if they are not even in the complaint?

MR. POLUR: Well, it's a civil case --

THE COURT: I don't pull that sort of stuff out of the air.

MR. POLUR: It's a civil allegation. I'll read it into the record, Your Honor.

THE COURT: That doesn't -- just reading it into the record doesn't make it any more in the record than it is being in the complaint.

MR. POLUR: It's on page 8 of the show cause order, Your Honor, in the top paragraph. Page 8.

THE COURT: What did you say? That was illegal?

MR. POLUR: Your Honor, not only illegal, I'm saying that --

THE COURT: I'm talking now about getting food packages.

MR. POLUR: Getting food parcels while he was Vice President of the United States. I'm showing it. I think it's a matter of evidence.

THE COURT: Who did he get food from?

MR. POLUR: From one of the major food chains. I don't recall the name. One of the major food chains in America.

THE COURT: How can I go on something as loose as that?

MR. POLUR: Your Honor, I think he, as a matter of record, admitted it at one of the proceedings he was questioned. I don't want to swear to that but I believe I read it in a transcript. But, Your Honor, the point of that is much more significant, I believe. My -- if Your Honor will just bear me out another minute on this issue, it seems to me that a man who has received National Security Council briefings for a number of years, when he leaves the Vice Presidency of the United States, and deals with foreign countries without telling the American people, he violates the most fundamental fiduciary relationship any elected official has with the United States citizenry and that is one of the complaints I've made as a civil allegation.

THE COURT: Do you have any authority on that?

MR. POLUR: Oh, yes, Your Honor. I think --

THE COURT: Are they in your brief?

MR. POLUR: Yes, they are, Your Honor.

THE COURT: Well, however, one of the



things is, tell me, where do you allege that the facts contained in this order to show cause are true?

MR. POLUR: I believe I alleged they are on information and belief.

THE COURT: You made an allegation or you made an affirmation?

MR. POLUR: Yes.

THE COURT: A distinction between an affirmation and an oath.

MR. POLUR: I believe I said on information and belief.

THE COURT: On information and belief.

MR. POLUR: Yes.

THE COURT: I was wondering whether you had.

MR. POLUR: Yes. I believe I said that, Your Honor.

THE COURT: All right.

MR. POLUR: I'd like to read into the record which I think that's fundamental to this, a very few sentences, Your Honor, on fiduciary relationship that is possibly a landmark statement in American jurisprudence. "Many forms of conduct permissible in a workaday world from those acting at arms' length are forbidden to those bound by fiduciary duties. A trustee is held to something stricter than --

THE COURT: I am thinking we know those cites.

MR. POLUR: Justice Cardozo. The point is this: This court with the awesome importance and important responsibility, I very respectfully maintain has a duty inherent in the fact that Mr. Agnew was found judicially to be morally obtuse and that is a statement from the Court of Appeals of Maryland. I think Your Honor should take judicial notice of that fact. He was also found to cheat the government of the United States and I'd like the Court to take judicial notice of that.

THE COURT: He plead nolo contendere and was convicted on the plea of nolo contendere.

MR. POLUR: And the Court of Appeals of the State of Maryland --

THE COURT: I am well aware of that.

MR. POLUR: -- Your Honor, found him as I indicated. Now, in view of that, Your Honor, in view of the -- I think it's absolutely provable fact that he did receive food parcels for many years, even while Vice President, it demonstrates a lack of character, Your Honor, that in a Nuclear Age I think is terribly dangerous to this country. And I think this court as a co-equal arm of our tripartite system of government, has a duty and responsibility to take perhaps judicial notice of those facts of his character deficiency and in view of that, Your Honor, I question whether Mr. Agnew -- and I did it in order to show cause

as a civil point -- whether he has the right to deal with foreign countries without telling the American people that he is so doing. If he's receiving money from these Arab Countries, he should tell the American people. I think it's overwhelmingly evident that he's doing that.

Your Honor, if Mr. Agnew was doing that with the Soviet Union or Communist China I think there'd be an outcry that would shake this country to its roots. What are the Arab potentates, where they still have slave markets in those countries, why are they on any higher scale of moral character than the Soviets or the Chinese Communists? A Vice President of the United States knows too many secrets. Is he selling them? I don't know what he's doing. What is he getting paid for? How much is he getting paid? Who is paying him? I think the American people have a right to know that.

THE COURT: I can't act upon your ignorance, you know. I can only act upon facts that are brought to my attention.

MR. POLUR: If Mr. Agnew were here, Your Honor, we would have him under oath and perhaps answer those facts for us. Your Honor was kind enough to tell us that you personally notified him of this meeting. I don't know why he's not here. I think I'd be here if I were told there's an order to show cause with these facts.

THE COURT: I didn't notify Agnew. I believe I notified his attorney. He was notified because before you filed this

paper, as I understand it, you notified the press that you were going to press it and the press notified Mr. Agnew and Mr. Agnew got himself a lawyer. That's the way I understand it. The first action was your telephoning the press before you filed the papers. Isn't that correct?

MR. POLUR: In the show cause order it was correct, Your Honor. Yes, I informed the Court, yes, sir, it is. I felt it was a matter of compelling public interest and I had a duty to inform them. But the fact is Mr. Agnew is not here to answer these very, very fundamental and serious charges, Your Honor, and I think that he owes a duty to the American public and to this court. I think he should have more respect for the Court, Your Honor. I certainly do.

And finally, Your Honor, in the United States vs. Peace Information Center, 97 F.Supp. 255 at page 261, there is a very salient sentence.

"Citizens of the United States are forbidden to carry on correspondence or intercourse with any foreign government with an intent to influence its measures or conduct in relation to any disputes or controversies with the United States", quoting Fong Yue Ting vs. United States, 149 U.S. 698, 705, 13 S.Ct. 1016, 37 L.Ed. 905.



I would like to ask Mr. Agnew if he's corresponded with foreign countries and I think he owes a duty to this Court to come in and explain to the American people what he is doing. Is he getting paid, by whom and how much, for what purpose, Your Honor? I think that's a civil matter that this Court, very respectfully, should take cognizance of and rule on it. That is strictly civil and that's in the show cause order.

THE COURT: It will no doubt be handled in your damage suit for a million dollars. That is what's before me in the civil -- on the civil side. I'm more worried about what my duties are in the criminal case.

MR. POLUR: Well, Your Honor, in view of what Your Honor is saying, would it -- could I very respectfully ask the Court, if I were to take off the title number, the index number of this case, and present the order to show cause before this Court or another judge with the affirmation outside of the civil suit totally, which I thought I had to bring that way, would His Honor entertain it?

THE COURT: I have this before me here. Do you mean -- in what sort of a case -- I will rule on what's before me. I am not going to guess on what anybody -- what would go on any other case. We have something --

MR. POLUR: Well, I would --

THE COURT: I have before me certain

allegations that you have made. Whether they are supported by affidavit or not I find it very difficult to tell, or by affirmation, because your affirmation mostly tells about your own experience and says very little about Agnew. But you are a member of the bar and the Court is bound to give attention. Although I am sitting here in a civil case, the nature of which we have been discussing, you have made certain allegations of facts which bear on the criminal case. And since Judge Hoffman is not in this District and since this case is before me, I have certain responsibilities to consider what I should do in the criminal case, whether you handled your pleas properly or not, and that's why I am happy to see the United States Department of Justice represented here. They also have some interest in the matter.

MR. POLUR: May I ask the Court, very respectfully, in view of the serious nature of these allegations I have made in the order to show cause, I would respectfully urge the Court to order the Department of Justice and in the persons of these honorable gentlemen here, to take over this order to show cause. I think it is their duty and I respectfully would ask the Court to so inform them.

THE COURT: I would like you to show me my authority to order the Department of Justice to do that; if you have any



such authority. I am not aware that it is within my power under these circumstances to order them to do something. It may be. I'm not saying I have the power; I'm not saying I haven't the power. But before a member of the third branch orders a member of one of the other branches of government to do something, he needs some reasonable assurance that he has authority to do it. Maybe that question will not arise. We will wait until we hear from the Government on that to see what if anything the Government has to say. Do you have anything more?

MR. POLUR: Well, Your Honor, would it be appropriate for me to ask the government why they are not in this since they're aware of it? Why are they not? This is a violation of the law.

THE COURT: You haven't sued the government and the government hasn't sued you. Let's wait until we hear from them. They are here; you served a copy on them and I asked them to be here. I think we are hearing your motion and when they come to have a chance to speak, they will speak. You intend to say something; don't you Mr. Kramer?

MR. KRAMER: I think, based on what Your Honor has said and I assume the questions Your Honor may have, I think we are obligated to make some statement.

THE COURT: I would like to hear from Mr. Harrison first and then I probably will ask Mr. Harrison a question or two.

MR. KRAMER: Thank you.

THE COURT: That is all right.

MR. HARRISON: May it please the Court, there is very little more than I can say. Your Honor already recognizes what the inherent fallacy of this show cause order is and, respectfully, it has no place in a civil action before Your Honor. As far as the basic question of jurisdiction, I think it is beyond question that any judge of this district could entertain the question of whether or not it should or should not issue a warrant for violation of probation, based upon ample facts shown and by a proper affidavit alleging that those allegations are, in fact, true. And I agree. I have also noticed what Your Honor has also noticed, that the affirmation says little and Mr. Polur is a member of the bar and his background and the fact he owns two blocks of real estate in Miami. But as far as the allegations against Mr. Agnew, I see no -- in fact, I see a very careful avoidance of any commitment as to whether or not those allegations are or are not facts or are true.

Consequently, it is a completely different matter which is not before the Court and even when the gets to it I respectfully

submit -- or if it would get to it -- that in considering violation of probation, Your Honor's power is limited strictly to the confines of Title 18 of the United States Code and --

THE COURT: What?

MR. HARRISON: You're limited strictly to the confines of Title 18 of the United States Code which provides -- it's a -- Congress has seen fit to provide a method for granting of probation, a granting for revocation, and within that narrow confines, Your Honor or any other judge of this district would act. But we haven't as yet -- as yet as I see it -- gotten to that point.

I would like to say to the Court and for the record that I am appearing here specially today for the limited purpose of this motion because of the time situation. Mr. Agnew isn't trying to run away from Mr. Polur. He isn't trying to avoid the issues. He's willing to meet this civil action head-on and will do so.

THE COURT: Does anybody know whether the papers have been served on Mr. Agnew?

MR. HARRISON: I think he was served on the initial complaint. I think he was served on Monday but he has never seen a copy.

THE COURT: He has had time to --

MR. HARRISON: Oh, yes, sir.

THE COURT: He has time to answer.

MR. HARRISON: He has time to answer and will answer following the rules of court and the appropriate --

THE COURT: Well, the reason the notice had to be given, there was a request for an order which is, it seems to me, almost in the nature of a temporary restraining order.

MR. HARRISON: Yes, sir.

THE COURT: And before I signed it, I was just supplying by way of analogy -- the rule which requires notice to the other side before you issue an ex parte temporary restraining order and this seemed to me to be an analogy similar to that. So that I wanted to hear anything you wanted to say.

MR. HARRISON: We understand. We understand and we appreciate it and that's why I'm appearing here on his behalf in connection with this show cause order which, as we have demonstrated by our very short memorandum because I didn't want to burden you with a whole lot of writing on something that is so simple. It just isn't before Your Honor in a civil action and that's about it.

THE COURT: Well, I take it that everybody agrees that this Court, that I have the power now to issue a warrant for Mr. Agnew's arrest, based upon information. The question is, should I do it.



MR. HARRISON: I say upon proper cause shown, yes, sir.

THE COURT: I don't think there is any question. Your citation of 3653, or whatever the number was, is the recognition of the power that the Court has. It has to. The question is how such material, whether the Court should act on a particular item depends partly on the way it is presented to it.

MR. HARRISON: I agree with that.

THE COURT: And the facts, to some extent -- who presents it, whether the government or a private citizen, and the way it is presented. So, all of these questions have to be considered on whether I would issue a warrant, really.

MR. HARRISON: Yes, sir.

THE COURT: To show cause why it should not be revoked. It isn't the way it is usually done, I suppose. If the Court decided -- decides to do anything, I suppose, Mr. Agnew would appear on a show cause order without requiring a warrant for arrest.

MR. HARRISON: Of course.

THE COURT: I am not saying--I am saying that a show cause order --

MR. HARRISON: The only reason he happened--he was leaving for New York on a

business trip at the time AP notified him that there was a show cause --

THE COURT: I'll have to cross that bridge when I come to it. I just wanted to know because I thought that -- although the statute refers to a warrant for arrest, it is sometimes done in a less formal fashion, and a less formal fashion might be a proper way of doing it.

MR. HARRISON: It can be done by a telephone call to me, Your Honor, if you would decide to do that. May I say one more thing in that regard. I gathered from Mr. Polur's complaint here today that what he really is attacking is Judge Hoffman's decision to put Mr. Agnew on probation and I respectfully submit that that would not be before not only Your Honor but any other judge of this court or any other court because you don't sit in review of sentences, so to speak, of what another judge did. If he got bags of groceries for 15 years before he was placed on probation, certainly it would have nothing whatsoever to do with whether or not his probation should be revoked. And if he obtained bags of groceries after he was on probation as a gift, then unless he went out and stole them, that certainly would not be grounds for revocation of his probation.

So, the factual things presented to Your Honor would, I respectfully submit, would have a great deal to do with whether or not there would be a determination that



you even wished Mr. Agnew to appear.

THE COURT: So far as I can see, the only things alleged to have been done while he was --before he was convicted was, as far as I can see, was having received these gifts and not having turned them in more promptly. If that was the question, it is true. And assuming it's true and assuming Judge Hoffman was not told about that, would that have affected Judge Hoffman's decision? That was made for the reasons that I think everyone in the room knows and has been discussed for several years back and forth. I think he stated the reason and certainly Mr. Richardson stated the reason why he was making the recommendation that he did.

I am not saying it is impossible to review it, but you would make the point that the Court -- no other judge had a right to change the sentence.

MR. HARRISON: That's correct.

THE COURT: And I know of no authority that a judge would have the right or that even -- I'm not at all sure Judge Hoffman would have the right to change the sentence even if he were sitting here in this Court.

MR. POLUR: Your Honor, the distinguished counsel is in error, very respectfully. I praise Judge Hoffman and I praise the Attorney General Richardson. I think they did a very fine, American thing in allowing

the probation to proceed. I wasn't against that. I think it's better than him going to jail as Vice President. What I said was had Judge Hoffman been aware of this undisclosed information of the gifts from the Saudi Arabian King and others, he may not have ruled the way he did.

THE COURT: Are you seriously arguing that he wouldn't have done that? That the dominant consideration wouldn't have overridden that as well as all the other things that were brought to Judge Hoffman's --

MR. POLUR: Well --

THE COURT: -- attention.

MR. POLUR: No, but the point was at that time Mr. Agnew was violating the federal law, in my view.

THE COURT: Well, he hadn't.

MR. POLUR: Again, even while the judge was telling him, don't violate it, he was doing it.

THE COURT: Well, there is also a --

MR. POLUR: That's my view, Your Honor; But I certainly didn't object to the probation.

THE COURT: It is hard to believe that that is a more serious offense than those which are covered in the 40 page summary

and if the 40 page summary before Judge Hoffman did not cause him to refuse the recommendation of the Attorney General, I find it hard to believe that these matters which you refer to would have changed Judge Hoffman's decision. I don't think really there is any use of putting any more time in on that. I think that what you have done is to call to my attention certain things which you say are true and which the defendant has had no opportunity to deny and to say that those things warrant the Court in considering whether his probation should be revoked. That's really it.

MR. HARRISON: That's really it.

THE COURT: And that's what we're here for. Now, do you have anything more?

MR. HARRISON: The only other thing I would like to say, and I realize it may be improper to express to the Court what you happen to have personal knowledge of, but for an attorney to do it, I think what Mr. Polur is doing and I say this with no disrespect, he has completely overlooked a procedure specified by the United States Code for the returning of items received from foreign countries, etcetera. There was a period, of course, where there had to be a notice from the State Department and a procedure whereby all of the things, many more things than he has alleged in his complaint, items I'm speaking of, items which were personal gifts.

THE COURT: Are you talking about the gifts or about the --

MR. HARRISON: About the gifts about which they had to be inventoried. The inventory had to be checked. They had to be packed. They had to be placed in storage and they all, all are in custody of the appropriate agency of the U.S. Government.

Now, if that is a violation of probation for a man to get checked out and it takes six months in which to do it, then Mr. Agnew certainly would be in violation of probation. But if it is a reasonable time and I don't think that legislation specifies that he has got one day, two days, six months or two years, as long as he reports what he has. As long as it is inventoried, as long as it is packed, and as long as it is turned over, we respectfully submit to the Court that he has complied with the letter of the law. And there is no time period specified, saying that well, you've got to do it within six months, one year or two years. And I did want to bring that to the Court's attention. I happened to be there one night when the stuff was packed and inventoried.

THE COURT: Well, it's the other things since that he's saying. That agents of foreign governments, without properly registering, and I have no idea, I didn't get what is stated. I don't know what knowledge Mr. Polur has of the facts beyond what he may have read in the newspaper. I think he relies on a newspaper article that he has cited.



MR. POLUR: Jack Anderson.

THE COURT: Everything emanating from the newspaper reports is still secondhand by the time it gets to this court.

MR. HARRISON: He alleges no facts to support that conclusion that he arrives at, if the Court please. Thank you.

THE COURT: Now, what is the -- does the Government wish to say anything?

MR. KRAMER: Your Honor, I think what must be clear is that the Government is not a party to these proceedings and is only here at the suggestion of the Court because it does deal with Mr. Agnew, who was prosecuted by the Department of Justice.

I think it is also important to mention that any citizen does have a right to bring to the attention of the Court or the probation office alleged violations of the law by someone on probation.

THE COURT: You take the position, and I think you're right, that he can bring it either to the attention of the probation officer in charge, there not being any, or to the chief probation officer, or to the United States Attorney or the Department of Justice or to the Court, I think. A citizen has the right to do any one of those. Do you deny that,

Mr. Harrison? I say he has a right to bring it in some way to the attention --

MR. HARRISON: I do not deny that. I agree whole-heartedly.

MR. KRAMER: The normal course thereafter would be that the probation officer would investigate the matter, and make recommendations to the Court. If in the -- and that is what the government believes is correct, --

THE COURT: That is what we usually do to have these, any such charge, investigated by a probation officer. But there is no probation officer in charge of this case.

MR. KRAMER: That is right, Your Honor. In view of that, Your Honor, it seems to me that the Government's position as was originally stated, we have no position, one way or the other, not being parties to the proceeding and not having the matter referred to a probation officer or to the Court or to the United States Attorney's office by the Court for any action, we have no position one way or the other.

THE COURT: It has now gotten to be one o'clock. I will come back at two o'clock and hopefully I will be able to state some decision at that time. If not, I will state it later.

(Luncheon recess -- 1:00 p.m.)



A F T E R N O O N   S E S S I O N

(2:00 p.m.)

THE COURT: Anybody want to say anything else?

MR. KRAMER: No, sir.

THE COURT: Section 3653 of Title 18 U.S.C. provides in pertinent part that at any time within the probation period, within the maximum probation period permitted by 3651, which is five years, the Court for the district in which the probation is being supervised may issue a warrant for his arrest for violation of probation occurring during the probation period. Requests for such warrants are usually made by the probation officer who has supervision of the probationer or by the chief probation officer of the district.

In this case, however Judge Hoffman did not require that the probation be under supervision. Nevertheless, a court can act on information brought to its attention by the United States Attorney or other representatives of the Department of Justice or by other sources. Plaintiff in this civil case has made allegations some of which if proved in this case or otherwise shown to be true, might justify this Court in taking appropriate action under 3653.

At present, however, these are mere

allegations with one exception, the material contained in the recommendation of the three judge panel and the opinion and order of the Court of Appeals of Maryland in the disciplinary proceedings brought against Spiro Agnew. That proceeding dealt with his activities before his conviction and, therefore, cannot be the basis for the revocation of probation which the Plaintiff seeks. Title 18, U.S.C., Section 3653, as summarized above.

Moreover, the allegations made by plaintiff -- the allegations are made by the Plaintiff in a civil action in which he seeks to obtain more than one million dollars in damages from the defendant Agnew. They are not supported by a convincing affidavit or affirmation. The Court concludes that it should not take any action in the criminal case at this time except to request the Department of Justice to investigate the allegations and to recommend to this court whether the court should take any action in the criminal case and if so, what action.

MR. HARRISON: May I request the Court that the result of the investigation, other than as to any possible probation violation, be sealed so that the defendant's personal affairs may not be exposed and exploited through the press or other means.

THE COURT: Does the Government have any objection to that?

MR. KRAMER: Well, Your Honor, I think before I can respond this is something I should discuss with other Department of Justice officials in Washington. We have always been opposed to having anything done under seal. Generally in criminal matters, they are of public interest to begin with. But I think that can be explored at such time as the --

THE COURT: If the Government requests that nothing be done, you don't care. If the Government requests that something be done, they will have to give a statement.

MR. HARRISON: Yes, sir.

THE COURT: Of the facts. Those facts would be served on you with an opportunity to answer them.

MR. HARRISON: I understand.

THE COURT: I think if the Government recommends that nothing be done, I see no reason why they should make a more elaborate report than that, that they have investigated the matter and have concluded. On the other hand, it might be more desirable to have the facts that they have brought to the court and I think that they should be shown to you before anything is done before they are made public.

MR. HARRISON: Before there is any public exploitation of this situation, yes. I would agree with that.

THE COURT: I think -- is there any reason that shouldn't be done, Mr. Kramer. Instead of filing it in a civil case, you send it to me. I think it should be sent to me rather than put in --

MR. HARRISON: I agree, Your Honor. The matter, though unusual because the person involved is Mr. Agnew, I think the proper way to approach the matter is that whatever recommendation dealing with Your Honor's request be made to Your Honor. As to whether or not it should be made known to counsel can be discussed at that time, depending on what's in it, if anything.

THE COURT: I think if you are giving me --

MR. KRAMER: It is a problem.

THE COURT: -- a recommendation and if I'm going to issue a warrant, there are three things I could do -- I could issue a warrant. I could issue an order for him to come in. I could issue some sort of a show cause order, I suppose. It is not usually done but I don't see why it couldn't be done.

Now, if there is a show cause order, the facts would have to be set out in that. If there is to be a warrant issued or the equivalent of an order to come in for a hearing, what the hearing is about would have to be public.

MR. HARRISON: I agree with that, of course.

THE COURT: If the Government concluded there is no basis for making such a recommendation, then I think the Government ought to make it to me and I would speak to you before the Government reveals that report. I can't say, of course, if the Government finds evidence of a crime or if the Government finds evidence which the Department of Justice thinks calls for --

MR. HARRISON: Which would be a violation of the probation.

THE COURT: You would tie the hands of the Department of Justice. I think -- I suppose what all of us want is that the matter be treated fairly.

MR. HARRISON: Correct.

THE COURT: And I think we'll have to see what it is and the Government will not make public what it is reporting to me until they have discussed it with me. And I would think that you would be notified to be -- to see it first.

MR. HARRISON: Yes, sir. With all due respect to everyone present and intending to cast no reflection, this type of investigation, even though it reveals nothing, could be very harmful to a person whose business affairs are thereby exposed, etcetera, which really doesn't

amount to anything as far as the probation, violation of the probation is concerned.

THE COURT: I can control the report that is made to me. I cannot further tie the hands of the Department of Justice.

MR. HARRISON: I understand that and if the Department concluded that there should be a proceeding to determine whether he is in violation of probation, it should be a public matter. We agree with that. But until such determination is made by a proper forum I feel we should be entitled to protection.

THE COURT: Do you disagree with that at all?

MR. KRAMER: No, Your Honor. I think, as I understand it, the appropriate officials in Washington will review the allegations made by counsel in the matter and may determine that the information is sufficient enough to go forward to see whether these allegations have any merit or they may feel that on their face they have no merit and make those recommendations.

THE COURT: They may know something about it.

MR. KRAMER: Or they may know --

THE COURT: They may say they have investigated and find no violations.

MR. HARRISON: That they may not know



the whole story.

THE COURT: Or find that there is -- that they shouldn't do it for some reason. They should not press it for some reason. That is the responsibility of the Department. I have my responsibilities too and I'm going to try to handle my responsibilities in the way I have just indicated.

MR. HARRISON: I'm only just asking, Your Honor, not to grant an open season hunting license on any irresponsible person who may wish to file a lawsuit until such time that there is some basis to demonstrate to you that the Court can take action.

THE COURT: The Court is aware of the rights of your client, Mr. Harrison, the rights of the Plaintiff in this case, and the rights of the public. And I will try to guard them as fairly as I can.

MR. HARRISON: I know that, sir, and I appreciate it and we thank you.

MR. KRAMER: Your Honor, let me assure the Court as a representative of the Department of Justice I will do everything in my power to assure Your Honor that whatever report is made is made directly to Your Honor and will be kept secret, as far as it is in my power to do so until such time as Your Honor sees fit to make it known to counsel or anyone else or make it public.

MR. HARRISON: We will cooperate completely with the Justice Department, and give them any information they may need.

THE COURT: Part of the thing is complicated. Mr. Polur must realize, having brought these matters to the attention of the Court and the -- also, you still have a large damage suit against Mr. Agnew and I have to be careful in that damage suit to see the Plaintiff's rights and the defendant's rights which are slightly different from the Government's rights and the defendant's rights in the criminal case. So, I will try to keep the two together. What I am getting here is something from the Government for my information as to what if anything I should do in the criminal case. I am not getting the Government to undertake discovery for you in your civil case.

MR. POLUR: I understand, Your Honor.

MR. KRAMER: Your Honor, it should be clear we have no interest in the civil matter and do not wish to become a party in any way, shape or form.

THE COURT: I undersand and that is why I think I won't be able to allow Mr. Polur to run through that report. That is another aspect which may require more care than even otherwise would be necessary. I have to keep all these factors in mind.

MR. KRAMER: I think, Your Honor, as an officer of the Court there is one matter I wish to raise, which is this: I do not know how long a review--how long it would take to review the allegations and make the determination of where, if anywhere the Government and the Department of Justice will go beyond Your Honor's request of an answer.

THE COURT: I think that I ought to know.

MR. KRAMER: In fact, you may be sure, hopefully. My only point is I don't know the status of Mr. Agnew's probation and whether or not, arguendo, whatever the report comes back, whether Your Honor will still have any authority in the matter.

THE COURT: I looked up the law and Mr. Harrison looked up the law and we both came to exactly the same conclusion. The probation period ends in about three days but not the power; this Court's power does not end until five years after the sentence because he could have been put on probation for five years, Mr. Harrison.

MR. HARRISON: Well, I don't think it's five years after the sentence. I think five years is the maximum period.

THE COURT: Well, it is the maximum. I say it is the maximum period but any time during that period the Court can take action.

MR. HARRISON: That is correct, yes, sir.

THE COURT: That's what I said. Any time during that period the Court can take action.

MR. HARRISON: Upon proper cause --

THE COURT: You would not be able to make a report within the three year period but I certainly hope you would make it within the five year period.

MR. HARRISON: I would hope so.

MR. KRAMER: I would hope so too.

MR. POLUR: May I be heard on this matter?

THE COURT: Yes.

MR. POLUR: I want to commend the Court for the very accurate statements, especially as to the five years. I have done extensive research on that and I have about 30 cases confirming that view, Your Honor, and as I recall the case law, if anytime during the five years, and that's premised on the fact that the original criminal information would have to be -- the man -- the defendant could have served up to five years or longer.

THE COURT: It isn't a question of service. It's the length of the possible probation.

MR. POLUR: Yes.

THE COURT: Possible probation was five years.

MR. POLUR: All right. Well, in view of that, Your Honor, it's my further understanding that if Your Honor should find or the Department of Justice should recommend that there is a criminal violation of the probation, the probation is then revocable at any point up to that five year period, Your Honor,

And further, as I understand the statute, there has to be a statement, I believe in writing, from the Department of Justice, suggesting to His Honor, to the Court, during the three year period that there may be a violation. And in order to toll or to give effect to the retroactive effect of the three year probation period, Your Honor, and I take it that from what Your Honor has said, that is in effect, even though there is nothing in writing with regard to that aspect of it.

MR. POLUR: I hope I made myself clear. I am sure you did.

THE COURT: I am sure that Mr. Harrison hopes you are right because you have been more for the defendant than he was on that in your statement of what he understands the law to be. That's all right. We'll just cross those bridges when we come to them.

MR. KRAMER: I am willing to submit that, Your Honor.

MR. POLUR: Is there a tolling, Your Honor, of the three year probationary period in view of the statement of the Justice Department? That's really what I'm asking, Your Honor. If the Justice Department -- if the Justice Department comes before this Court and says that there's a basis for investigating possible parole violation, in terms of revocation, at that point there is a hiatus; there is a tolling of the three years probationary period. The -- and the defendant, even though he is here on a special --

THE COURT: Have you looked up the dates on all your cases and the amendment to the statute?

MR. POLUR: I think I did, Your Honor. I think that's a correct statement of the law.

THE COURT: I don't think we have to go into it. We don't have to decide hypothetical legal questions now. It is my understanding that it is only offenses committed during the period of probation, which is a three year period. But the Court can, say four years --

MR. POLUR: Yes.

THE COURT:-- afterwards take appropriate action.



MR. POLUR: That is correct, Your Honor.

THE COURT: That's my understanding of what the extremes of the power of the Court are.

MR. POLUR: One other point, Your Honor. I would very strongly object to distinguished counsel's statement: "I want a veil of secrecy over this." I think, Your Honor, that is what is happening in America, with Watergate, Your Honor, and that's what happened to Mr. Agnew. Veils of secrecy--First Amendment rights are trampled every day by certain members of our country and that's what this is all about, Your Honor. The antitrust violation, the secret representation for foreign governments that I have contended and I think this is an extension of that very fact, Your Honor, and I take strong umbrage to it.

THE COURT: So that it is very likely to -- publicity beyond the control of the Court is always a possibility. After having had many adventures over the last 20 or so years, I recognize that possibility.

MR. HARRISON: If the Court please, may I make one comment? I had not suggested to Your Honor and I had better sense than to do that, that there be any veil of secrecy. I am only asking for protection up until such time as it has been demonstrated to this Court

that there has been some reasonable grounds for a possible violation. I would like to say this to Mr. Polur. I happen to have known Mr. Agnew for over 40 years. We have been personal friends. He didn't run from a Panzer Division at Bastogne and I'm sure he's not going to run from Mr. Polur. And he will appear in this court when the court wants him to, he will comply with the letter of the law and he will demonstrate that he has complied with the letter of the law as far as his probationary period is concerned.

THE COURT: The only ruling I have to make on that is that the Government will not disclose its report until delivered to me, and until I authorize them to do so.

MR. KRAMER: That is clearly understood, Your Honor.

MR. POLUR: May I respectfully ask the Court one other thing? To order the Justice Department to either subpoena me or, I don't have to be subpoenaed, certainly to testify to what I know about these alleged violations, Your Honor.

THE COURT: You can communicate to the Justice Department in any way that you see fit. I am not putting any limitations on the investigation that they should make and if you want to talk to the Justice Department, you may do so.

I am not -- I don't order them how they should make their investigation.

MR. POLUR: All right. And then, finally, Your Honor, with due deference to distinguished Counsel, I was a private not in the Panzer division, fighting Panzers, but I was in World War 11, on Okinawa and Ie Shima fighting the Japanese.

THE COURT: Let's stick to the facts.

MR. POLUR: Just for the record.

THE COURT: Let's go off the record for a minute. (Discussion held off the record.)

MR. POLUR: If I wanted to appeal it, is it an order, such as -- it is appealable as a matter of law?

THE COURT: You ask if this is an appealable order and you want my opinion on it? I'll give it to you. I will probably, after something like this, dress my order up just a little bit. If I am going to file it, it has to have a heading and things like that put on it. I am not going to give you any advice. I read your statement about the extent of your legal experience and abilities and I think you should be able to answer that question as well as I could.

MR. KRAMER: Your Honor, if I may,

there is one matter which I wish to just see if it can be clarified. Near the end of the colloquy between counsel a few moments ago Your Honor used the term investigation by the Department of Justice. There may be no investigation. It may simply be after a review of the matter a recommendation to Your Honor, there is no need to go any further. I may --

THE COURT: They have already made an investigation. The learned reporter whose article is attached to the complaint indicates the Department of Justice has made an investigation of some of these matters.

MR. KRAMER: I don't want to be misinterpreted that there is going to be some grand investigation.

THE COURT: I'm asking the Department of Justice to do what it thinks proper. When I get that report, I will take such action as I think proper after discussing it with everybody.

MR. KRAMER: That is fine, Your Honor. Thank you.

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STATE OF MARYLAND)  
CITY OF BALTIMORE) ss.

C E R T I F I C A T E

JOHANNA D. MARSHALL, being first  
duly sworn, on oath says that she is a  
court reporter doing business in the City  
of Baltimore; that she transcribed the  
proceedings taken from a tape recording  
and the shorthand notes of the official  
reporter and contains all the proceedings  
that were audible and decipherable from  
the aforesaid recording and notes.

s/ Johanna D. Marshall

Subscribed and sworn to  
before me this 26th day  
of January, A.D., 1977.

s/Dean A. Robinson  
Notary Public

APPENDIX B

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND

-----X  
SAM POLUR, :  
Plaintiff, :  
vs :1976 Civ.  
SPIRO T. AGNEW and EDUCATION :T-76-1478  
FOR DEMOCRACY, INC., :  
Defendants. :  
-----X

ORDER TO SHOW CAUSE  
WHY SPIRO T. AGNEW  
SHOULD NOT HAVE HIS  
PROBATION REVOKED FOR  
VIOLATION OF THE  
COURT'S ORDER

This Court, on motion duly made by  
plaintiff in the within captioned case  
for an Order to Show Cause why Spiro T.  
Agnew should not have his probation re-  
voked during the balance of the term  
thereof, prior to the expiration of the  
three year period of probation duly im-  
posed upon the said Spiro T. Agnew by this  
Court on October 10, 1973, hereby

ORDERS the said Spiro T. Agnew upon  
the within duly submitted proposed Order  
to Show Cause, the Affirmation by Sam  
Polur, duly licensed Attorney at Law in  
the State of New York, appearing pro se  
in the within proceedings, and together  
with an annexed copy of the complaint and  
exhibits annexed thereto as duly served



and fuled in this Court in the above captioned case, to

SHOW CAUSE, why the said probationary period of three years from October 10, 1973 should not be revoked because of Spiro T. Agnew's alleged acts in derogation of this Court's Order to violate no State or Federal laws on pain of having his avoidance of a prison term reconsidered; said order of the Court having been delivered from the Bench at the time of imposition of sentence, upon the plea of Spiro T. Agnew of nolo contendere to a charge of violating the United States Internal Revenue Code of 1954, section 7201, the Felony of Tax Evasion, being Count Number 1 of the multi-count Criminal Information then and there pending before the Court concerning the said Spiro T. Agnew, and in satisfaction of the entire said Criminal Information who had that day October 10, 1973 duly submitted to the Secretary of State of the United States his written resignation from the Office of Vice-President of the United States; and to further

SHOW CAUSE, why he is not in derogation of the following express prohibitions of the Court's order to "violate no state or Federal laws" during the three year term of the said Probation:

A. Failure to obey the Foreign Gifts and Decorations Act, pursuant to which substantial gifts of more than

\$50. in value can only be accepted by a Government employee or members of his family on behalf of the United States, for immediate turning in to the Chief of Protocol of the State Department of the United States for cataloguing and disposition, in that in 1971 while he was Vice President of the United States he accepted from the King of Morocco a custom-made diamond set of shirt studs and tie clasps with golf balls and tees on it.

B. Failure to obey the Foreign Gift and Decorations Act, pursuant to which substantial gifts of more than \$50. in value can only be accepted by a Government employee or members of his family on behalf of the United States, for immediate turning in to the Chief of Protocol of the State Department of the United States for cataloguing and disposition, in that in 1971 while he was Vice President of the United States he accepted from the King of Saudi Arabia a diamond studded gold sheathed dagger.

C. Failure to obey the Foreign Gifts and Decorations Act, pursuant to which substantial gifts of more than \$50. value can only be accepted by a Government employee or members of his family on behalf of the United States, for immediate turning in to the Chief of

Protocol of the State Department of the United States for cataloguing and disposition, in that in 1971 while he was Vice President of the United States he accepted from the Crown Prince of Saudi Arabia multiple diamond and pearl jewelry.

D. Failure to obey the Foreign Gifts and Decorations Act, pursuant to which substantial gifts of more than \$50. in value can only be accepted by a Government employee or members of his family on behalf of the United States, for immediate turning in to the Chief of Protocol of the State Department of the United States for cataloguing and disposition, in that in 1971 while he was Vice President of the United States he accepted from the Crown Prince of Kuwait, through his spouse, Mrs. Agnew, a set of rubies and pearls.

E. Spiro T. Agnew, contrary to the Order of this Court on October 10, 1973 to "violate no state or federal laws," nonetheless, failed to advise the Court of receipt of that valuable custom made diamond set of shirt studs and tie clasps with golf balls and tees on it from the King of Morocco and his then continued illegal retention of same contrary to the Foreign Gifts and Decorations Act.

F. Spiro T. Agnew, contrary to the Order of this Court on October 10, 1973 to "violate no state or Federal laws", nonetheless, failed to advise the Court of receipt

of this valuable diamond studded gold sheathed dagger aforesaid, received from the King of Saudi Arabia and his then illegal continued retention of same contrary to the Foreign Gifts and Decorations Act.

G. Spiro T. Agnew, contrary to the Order of this Court on October 10, 1973 to "violate no state or Federal laws", nonetheless, failed to advise the Court of receipt of these valuable sets of diamond and pearl jewelry from the Crown Prince of Saudi Arabia and his then illegal retention of same contrary to the Foreign Gifts and Decorations Act.

H. Spiro T. Agnew, contrary to the Order of this Court on October 10, 1973 to "violate no state or Federal laws," nonetheless, failed to advise the Court of receipt of, through his spouse of the valuable sets of rubies and pearls from the Crown Prince of Kuwait and his then illegal retention of same contrary to the Foreign Gifts and Decorations Act.

I. Despite the clear warning from this Court on October 10, 1973 not to violate any state or Federal law during the probationary period aforesaid, the said **Spiro T. Agnew** Failed to report or turn over to the State Department Office of Protocol until on or about April 1, 1974 the custom made diamond set of shirt studs and tie clasps with golf balls and



tees on it received from the King of Morocco, in continued violation of the Foreign Gifts and Decorations Act.

J. Despite the clear warning on October 10, 1973 from this Court not to violate any state or Federal law during the probationary period aforesaid, the said Spiro T. Agnew failed to report or turn over to the State Department Office of Protocol until on or about April 1, 1974, the diamond studded gold sheathed dagger received from the King of Saudi Arabia, in continued violation of the Foreign Gifts and Decorations Act.

K. Despite the clear warning from this Court on October 10, 1973 not to violate any state or Federal law during the probationary period aforesaid, the said Spiro T. Agnew failed to report or turn over to the State Department Office of Protocol until on or about April 1, 1974 the sets of diamond and pearl jewelry from the Crown Prince of Saudi Arabia, in continued violation of the Foreign Gifts and Decorations Act.

L. Despite the clear warning from this Court on October 10, 1973 not to violate any state or Federal law during the probationary period aforesaid, the said Spiro T. Agnew failed to report or turn over to the State Department Office of Protocol until on or about April 1, 1974, the sets of rubies and pearls received from the

Crown Prince of Kuwait, through his spouse, in continued violation of the Foreign Gifts and Decorations Act.

IT IS FURTHER ORDERED, that Spiro T. Agnew

SHOW CAUSE, why the said probationary period of three years from October 10, 1973 should not be revoked because of Spiro T. Agnew's alleged failure to Register as a Foreign Agent as required pursuant to sections 611 et seq. of Title 22 of the United States Code and section 951 of Title 18 of the United States Code for his alleged professional services to and on behalf of one or all member-Nations of the United Arab Republic and the Organization of Petroleum Exporting Countries in derogation of this Court's explicit instruction to "violate no state or Federal laws" during the three year term of the said probation; and to further

SHOW CAUSE, why the said probationary period of three years from October 10, 1973 should not be revoked because of Spiro T. Agnew's alleged alter ego and legal progeny, EDUCATION FOR DEMOCRACY, INC., a corporation incorporated in Indiana but with its principal place of business in Maryland where it is duly qualified, and where it publishes pro-Arab, anti-Israel propaganda, failure to register as a Foreign Agent as required, pursuant to sections 611 et seq. of Title 22 of the United States Code and section



951 of Title 18 of the United States Code for that Foundation's alleged services, pursuant to the aforesaid financial support and guidance of Spiro T. Agnew, to and on behalf of one or all member-Nations of the United Arab Republic and the Organization of Petroleum Exporting Countries, and in derogation of this Court's explicit instruction to "violate no state or Federal laws" during the three year term of the said probation; and

IT IS FURTHER ORDERED, that Spiro T. Agnew

SHOW CAUSE, why the said probationary period of three years from October 10, 1973 should not be revoked because the said Spiro T. Agnew has in the very highest council's of our Government been privy to and had access to Top Secret and Confidential information, including United States military, nuclear and contingent plans relating to National Defense of the United States of America from January 20, 1969 until October 10, 1973; and as a member of the highest National Security Council during said period has been invested with secrets which could prove invaluable and priceless to foreign powers in a political, military and economic sense: e.g., awareness of where our secret supplies and depots of oil are and the quantity of same; and to

SHOW CAUSE, why said recent access to

such vital security matters affecting the United States of America in the person of Spiro T. Agnew, as recently resigned Vice President of the United States, in view of the said Spiro T. Agnew's judicially-found lack of character and moral delinquency in a wide variety of publicly disclosed areas, makes his alleged dealings of a secret nature with foreign potentates, and the highly-expensive gifts received from such foreign potentates as aforesaid - where such foreign potentates are, in the main, avowed antagonists and opponents of our system of Democracy, highly suspect and potentially of great danger in the Nuclear Age to the survival of our Nation; and to

SHOW CAUSE, why these pronounced dangers to our Nation's security and very survival are not explicitly, in view of Spiro T. Agnew's alleged accretion of financial and pecuniary gain from said foreign potentates, the Organization of Petroleum Exporting Countries and the United Arab Republic, together with the explicit judicial findings by Maryland's highest Judicial Tribunal that Spiro T. Agnew is "morally obtuse" and found to "cheat for his own pecuniary gain that government that he is sworn to serve," and highly suspect by any reasonable standard; and to

SHOW CAUSE, why this Court should not order Spiro T. Agnew to Cease and Desist from his alleged secret meetings with fo-

reign potentates; to Cease and Desist from obtaining monies, favors, commercial profits, any and all business advantages of any nature or manner whatsoever from any of the aforesaid Arab rulers, to wit, the King of Morocco, the King of Saudi Arabia, the Crown Prince of Saudi Arabia, and any of the said Monarchs' agents, consorts, servants, associates of, employee, contractor for or on behalf of any of the other member-Nations or of the United Arab Republic, in order to protect the security and safety of the United States of America; and to

SHOW CAUSE, why the above-cited moral delinquency found as a matter of law to adhere to the said Spiro T. Agnew, a Disbarred Attorney upon explicit findings of unworthiness by the highest Court of his State, to wit, the Court of Appeals of Maryland, and from which Order and Judgment the said Spiro T. Agnew has never appealed, should not be a total bar to his dealing with impunity or pursuant to exemption in advocating the interests of foreign nations in conflict with the Constitution and Laws of the United States of America without full disclosure of his motives and the means furnished for his advocacy; and to

SHOW CAUSE, why Spiro T. Agnew retained such valuable gifts as cited hereinabove,

and to tell this Court what other gifts, emoluments, monies, gratuities, favors, business interests were solicited, bargained for, received, and or bartered for services rendered or to be rendered for and on behalf of said Arab Potentates, the Organization of Petroleum Exporting Countries and the United Arab Republic during and subsequent to his said Term of Office as Vice President of the United States and subsequent to his resignation upon his plea to a Felony charge of Income Tax Evasion as and for the "plea bargain" to have same suffice for the entire multi-count Criminal Information then and there outstanding against Spiro T. Agnew; and to

SHOW CAUSE, why an admitted acceptor of food parcels on a weekly basis for years from a giant super-market chain up to and during his Term of Office as Vice-President of the United States, can be trusted to advance the interests of the United States in alleged secret dealings of a military, business, economic, industrial, political, monetary nature with said Arab Potentates, whose stated interests and whose open efforts are directed toward imposition of and continuation of an Oil Blockade against the United States and against the entire Western World as and when it suits their political, military, industrial and economic interests; and to

SHOW CAUSE, how our most recent former



Vice President of the United States, together with his tax-exempt foundation, Education for Democracy, Inc. whose "July newsletter reads like a reprint from an Arab propagandist's tearsheet," according to Nationally-syndicated columnist Jack Anderson, can, with impunity or pursuant to exemption allegedly deal and trade with said Foreign Potentates, from whom gifts in great dollar magnitude have been personally received, as acknowledged, and from whom it is alleged extraordinary fees are received, and yet the American public is not now, nor has it ever been made aware of with whom Spiro T. Agnew is dealing on a business, military, industrial, economic, propaganda basis; what monies and other emoluments of value are being paid Spiro T. Agnew to do the alleged bidding of these Foreign Potentates; what alleged services are being rendered for and on behalf of said personages and governments to promote divisiveness, discord and weakness amongst the American People by Spiro T. Agnew, his legal progeny, "Education for Democracy, Inc." and other unknown propaganda vehicles of and/or by Spiro T. Agnew, disseminating pro-Arab, anti-Israel propaganda into the American mainstream; and to

SHOW CAUSE, why this Court should not order Spiro T. Agnew to have his probation revoked during the balance of the term thereof for having violated the express terms thereof and thereon imposed by this

Court as aforesaid; and to

SHOW CAUSE, why this Court should not order Spiro T. Agnew to disclose for the record and on the record in open Court the terms of his alleged employment, the nature of the alleged services rendered and to be rendered to and for the Nations of the Organization of Petroleum Exporting Countries and the United Arab Republic, on behalf of himself and his alter ego, Education for Democracy, Inc.; the monies, gifts, business advantages, trade preferentials and related economic and monetary benefits received from, and to be paid in futuro to him and to his alleged alter ego, Education for Democracy, Inc., and all other related foundations and groups with whom he is associated to further the propaganda for the Organization of Petroleum Exporting Countries and the United Arab Republic and member-Nations thereof;

AND NOW, IT IS ORDERED THAT

SERVICE OF THIS ORDER TO SHOW CAUSE, duly signed by this Court, together with the supporting pleadings upon which it is based, the annexed Affirmation by Sam Polur, Esquire, and the Complaint in the within action, be personally served upon the said Spiro T. Agnew by a United States Marshal no later than \_\_\_\_ P.M. on \_\_\_\_\_, October, \_\_\_\_, 1976, and



FURTHER ORDERED, that upon due and proper service thereof, the said Spiro T. Agnew duly appear in person, alone or with Counsel, in this Court at 10:00 o'clock A.M., \_\_\_\_\_, October \_\_\_\_\_, 1976, to Show Cause why the Probation duly extended by this Court on October 10, 1973 be not forthwith revoked and annulled and penalties duly imposed thereon for the alleged violations of said Probation and Orders of this Court pursuant thereto as aforesaid.

October , 1976.  
Baltimore, Maryland

SO ORDERED,

UNITED STATES DISTRICT  
COURT JUDGE, DISTRICT  
OF MARYLAND

## APPENDIX B

UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND

-----X	
SAM POLUR,	:
Plaintiff,	:1976 Civ.
vs	:T-76-1478
SPIRO T. AGNEW and EDUCATION :	
FOR DEMOCRACY, INC.,	:ATTORNEY'S
Defendants.	:AFFIRMATION
-----X	
	:IN SUPPORT
	:OF MOTION

ORDER TO SHOW CAUSE  
WHY SPIRO T. AGNEW SHOULD  
NOT HAVE HIS PROBATION  
REVOKED FOR VIOLATION OF  
THE COURT'S ORDER

SAM POLUR, a duly licensed Attorney at Law in the State of New York since 1963 and a member in good standing in all the State Courts of Record as well as the United States Supreme Court, the Circuit Courts of Appeals for the Second and Third Circuit and the United States District Courts for the Southern District of New York, the Western and Eastern District of New York, and the Eastern District of Pennsylvania, affirms under penalties of perjury:

1. That he is the plaintiff, appearing in propria persona in the within action which he has duly filed and served upon each and both defendants pursuant to the local Rules of this Court and the Federal

## Rules of Civil Procedure.

2. That he is a responsible citizen of the United States of America and the State of Florida and has achieved some distinction in his professional, business and personal life, including the following:

A. He is one of the Editors and Co-Authors of Pleading and Practice for New York State Attorneys, 1972 Edition, published by Matthew Bender Legal Publishing.

B. He is co-author of "Florida and the Criminally Insane," published in 1958 in Florida.

C. He is, inter alia, author of a leading Constitutional article on the Law of Criminal Anarchy, published in 1970 by New York Law School's New York Law Forum, "From Gitlow to Epton," etc.;

D. He is published by the American Bar Association Journal in an article entitled: "Assigned Counsel, Retained Counsel - Why the Dichotomy?".

E. He originated the 1956 Democratic Dollar Day Programs, the first National undertaking of its scope and character by a major American political party in modern times; it was personally approved by candidate Adlai Stevenson and National Chairman Paul M. Butler.

F. He served as the 1958 Executive Director of the Inter-American Bar Association Convention Committee at the invitation of Honorable Cody Fowler, President of the Inter-American Bar Association and 1950 President of the American Bar Association.

G. He was a guest-participant of the 1968 Annual Judicial Conference for the Second Circuit at the invitation of Chief Judge Lumbard.

H. He served as President of the Bar and Gavel Legal Society of the University of Miami School of Law.

I. He completed a two year program leading to a Masters of Law Degree from New York University Graduate School of Law in one year while working full time days as a practicing Trial Attorney and "Of Counsel" to several other attorneys.

J. He was Director of Pleadings for a New York City Law Firm handling more uninsured motorists claims than perhaps any other Law Firm in the United States.

K. He was an Editor of The Miami Hurricane, All-American student publication of the University of Miami; Feature Editor of Miami Tempo, All-American Magazine publication of the University of Miami; and founding-Editor of Miami Parent-Age, University of

Miami publication mailed to parents of matriculated students and nationally honored. He edited numerous small weekly publications and significant industrial House Organs on a professional basis.

3. He is currently owner of record of two important City Blocks and the prominent buildings situate thereon in Miami, Florida, to wit, the former United States Treasury and Customs Buildings on one parcel and the United States Freedom Tower, through which historic building the nearly 500,000 Free Cubans were processed as escapees or emigres from a repressive Cuban Dictatorship from 1961 through 1973, and has diligently worked to retain this structure's integrity both as an official "Historic Site" and its official proposed dedication as the Statue of Liberty for the Southern Hemisphere.

4. He has taught as an Adjunct Professor of Public Relations at the University of Tampa, Tampa, Florida.

5. He has served as Director of Public Relations/Advertising and as Manager of Corporate Development, and instituted the first Central Purchasing Department in the history of the Havatampa Corporation as a Key Person to perhaps the leading Distribution Company in the United States; and helped it achieve a 72-year sales and pre-tax profit record of some \$468,000,000. and \$9.2 millions, respectively.

6. That during the extensive research required before filing and serving of the annexed Complaint and attached Exhibits thereto, your affirmant became aware of and believes he learned in small part of the extensive alleged activities of Spiro T. Agnew contemporaneous with and subsequent to his Term of Office as Vice President of the United States, for and on behalf of Foreign Powers, primarily those of the member-Nations of the Organization of Petroleum Exporting Countries and the United Arab Republic.

7. That your affirmant believes he is duty bound to reveal to this Court the many violations he believes he has discovered to have been committed by Spiro T. Agnew as a result of his massive research in preparation for this within lawsuit; and that as an Officer of the Court he has no choice but to bring these multiple violations he believes he has discovered to the Court's purview so that appropriate legal sanctions may be applied for the alleged violations of probation aforesaid, as the Court deems fit and proper in the premises.

8. That your affirmant relies on the law of the case he herewith sets forth below, and the facts he believes he has uncovered in furtherance of his belief that the allegations raised in the annexed Order to Show Cause are valid and subsisting.



9. Application is made for an Order to Show Cause in lieu of Notice of Motion and Motion because in no other way can the issue of violations of the terms of Spiro T. Agnew's probation be timely determined. This proposed Order to Show Cause has been made forthwith upon discovery by your affirmant of the said multiple grave violations as alleged.

10. No previous application for this Order to Show Cause has been made.

11. Highlights of the law of the case follow:

#### POINTS OF LAW

THE ANTITRUST ACTS APPLY TO THE DEFENDANTS AS ALLEGED CONSPIRATORS WITH THE FOREIGN PARTIES AND AS PARTICIPANTS WITHIN THE UNITED STATES OF THE ACTIVITIES OF THESE FOREIGN PARTIES ABROAD; WHICH ACTIVITIES, ARE THE PROXIMATE CAUSE OF THE IMPOSITION AND ITS CONSEQUENCES HERE OF THE EMBARGO BY THE OPEC AND THE BLACKLIST BY THE UNITED ARAB REPUBLIC AND ITS MEMBER NATIONS

No person within the United States may conspire with persons in foreign countries to eliminate competition or restrain trade here without violating the antitrust laws (Timken Roller Bearing Co. v. United States, 341 U.S. 593 (1951)). The activities of

persons in this country may not be isolated under the circumstances stated from the activities of the co-conspirators abroad (Steele v. Bulova Watch Co., 344 U.S. 280 (1952)). "The Sherman Act, as a charter of freedom, has a generality and adaptability comparable to that found to be desirable in constitutional provisions." Sugar Institute v. United States, 297 U.S. 553, 600 (1936). No matter how thoroughly protected by the First Amendment, the defendants' diatribes in their references to the opponents, in the United States and elsewhere, of the parties to the Embargo and the Blacklist may be as against prior restraint (Near v. Minnesota, 283 U.S. 697 (1931) or criminal prosecution (Terminiello v. Chicago, 337 U.S. 1 (1949)), freedom of expression furnishes us no exemption from liability when its effect is to restrain competition in violation of the broadly construed Sherman Act (Associated Press v. United States, 326 U.S. 1 (1945); Times-Picayune Publishing Co. v. United States, 345 U.S. 594 (1954)).

No matter how lawful or innocent, the defendants' challenged deeds and utterances may be in isolation, they are actionable pursuant to the allegations of the complaint at Bar. The classic latitude of construction for constitutional grants of, or limitations upon, authority, McCulloch v. Maryland, 17 U.S. (4 Wheat.) 316-407; United States v. Lefkowitz, 285 U.S. 452, 467 (1932), that enables Congress "to sweep

in what may be necessary to make effective the explicitly worded power." Reid v. Covert, 354 U.S. 2, 43 (1957); Jacob Rupert v. Caffey, 251 U.S. 264, 289 et seq. (19\_\_); Purity Extract Co. v. Lynch, 226 U.S. 192, 201 (191 ); Railroad Commission v. Chicano, Burlington & Quincy R.Co., 257 U.S. 563, 588 (191 ), has explicitly been invoked against conspirators who have defied the prohibitions of the antitrust acts condemning monopolies (American Tobacco Co. v. United States, 328 U.S. 781 (1945)).

In view of this authoritative elucidation of the scope of section 2 of the Sherman Antitrust Act, a fortiori relevancy becomes axiomatic of the individual and the institutional defendants' failure to register as foreign agents in compliance with sections 611-621 of Title 22 of the U.S.C.A. The individual has also not registered under the equally pertinent mandate of section 951 and 953 of Title 18 of the U.S.C.S. In addition, the individual had allegedly engaged in private correspondence with the officials of the foreign nations which are parties to the Embargo and the Blacklist.

These activities seem clearly to have originated during 1971, while the individual was serving his first term as Vice President of the United States. During his terms of office, the indications are that he and his spouse received lavish gifts from foreign potentates of the oil

producing sovereignties (Exhibit annexed) and postponed any report of their receipt or to turn the gifts over to the United States Department of State, contrary to statutory provisions. He only did so subsequently in the wake of public disclosure of the unlawful retention of the presents.

Since the individual was a fiduciary at the inception of what must necessarily be deemed his unlawful collaboration with these potentates, the burden of proving his non-participation in the conspiracy alleged in this complaint, rather than the burden of merely going forward in rebuttal, has devolved upon him (Meinhard v. Salmon, 249 N.Y. 458 (1928); Wendt v. Fischer, 243 N.Y. 439, 443 (1926); Dunne v. English, (1874) L.R. 18 Eq. 524). Any claim that the individual defendant may assert on his own behalf or on behalf of the Foundation or of his spouse under the exceptions provided for confidential information by section 552 of Title 5 would inexorably create presumptions, and not mere inferences, of law against him (Kirby v. Tallmadge, 160 U.S. 379, 383 (1896); Matter of Jordan v. Decorative Co., 230 N.Y. 522, 526, 527 (1921); Travelers Insurance Co. v. Pomerantz, 246 N.Y. 63, 69 (1927); Blatch v. Archer, 1 Cowper, 63, 65 (1774); see, also, Dowling v. Hastings, 211 N.Y. 199, 202 (1914); Isquith v. Isquith, 229 App. Div. 555, 559 (2d Dept.-1930).

Finally, the juristic philosophy with



regard to Freedom of Expression, that "we have staked upon it our all," (L.Hand, J., in United States v. Associated Press, 52 Fed.Supp. 362, 372 (D.C. S.D.N.Y. 1943), aff'd., 326 U.S. 1 (supra); Times-Picayune v. United States, 345 U.S. supra, 594), exacts a full disclosure by defendants of their material and relevant relations with the Arabian Nations involved. Otherwise due process and equal protection would be denied to plaintiff. The Fifth Amendment in so far as it is applicable qualifies all the provisions of the Constitution (McCray v. United States, 195 U.S. 27, 61 (1904); Hough, Due Process of Law - Today, 32 Harv.L.Rev. 218, 221 (1918); Kreshik v. St. Nicholas Cathedral, 363 U.S. 190, 191 (1960); N.A.A.C.P. v. Alabama, 357 U.S. 449 (1958); Bolling v. Sharpe, 347 U.S. 497, 500 (1954); Shelley v. Kraemer, 334 U.S. 1, 14-16 (1948); Bryant v. Zimmerman, 278 U.S. 60 (1928)).

For all the above factual and legal reasons duly cited, this Court is respectfully urged to revoke the probation of the said Spiro T. Agnew as moved herein.

Respectfully submitted,

s/  
Sam Polur

APPENDIX B  
DEPARTMENT OF JUSTICE  
Washington 20530

FEB 16 1977

Honorable Roszel C. Thomsen  
United States District Judge  
United States District Court  
for the District of Maryland  
United States Courthouse  
101 W. Lombard Street  
Baltimore, Maryland 21201

Re: Sam Polur v. Spiro T. Agnew,  
No. T-76-1478 Civil

Dear Judge Thomsen:

In the above-captioned case, the plaintiff sought to institute proceedings for the revocation of the probation of Spiro Agnew. At a hearing on October 8, 1976, the Court ruled that probation revocation charges were not within the proper scope of the civil case. However, the Court did request the Department of Justice to investigate the allegations made by the plaintiff and to recommend whether probation revocation action should be taken in Mr. Agnew's criminal case. For the reasons explained below, we recommend that no action be taken to revoke Mr. Agnew's probation.

The plaintiff's proposed Order to Show Cause Why Mr. Agnew's probation should not be revoked contained a number



of suggestions that Mr. Agnew was not a worthy candidate for probation in the first place. We do not believe that such considerations are appropriate grounds for revocation of probation once it has been granted. Therefore, we have directed our inquiry only to the actual violations of probation during the probationary term. Those allegations are (1) that Mr. Agnew has failed to register as a foreign agent in connection with his work for Education for Democracy, Inc., and (2) that Mr. Agnew failed to report or deliver to the State Department until April 1, 1974, a number of gifts which he had received from officials of foreign governments while he was Vice President.

With regard to the allegation that Mr. Agnew has violated the Foreign Agents Registration Act, 22 U.S.C. §691 et seq. (sic!) by his failure to register, Department of Justice Attorneys met on January 14, 1977, with Mr. Agnew, his attorney, and the Secretary-Treasurer of Education for Democracy, Inc. to determine whether the corporation and/or Mr. Agnew had incurred an obligation to register under the Act. After review of the corporation's correspondence files, minutes of corporate meetings, check book, bank statements, membership and contribution lists, and other financial records, it was determined that there was no reason to believe that Mr. Agnew, through Education for Democracy, has acted on behalf of or in the interest of any foreign principal in violation of the Act.

The allegations that Mr. Agnew failed to make timely delivery to the State Department of gifts from foreign officials purport to charge a violation of the Foreign Gifts and Decorations Act, 5 U.S.C. §7342. In pertinent part, the statute provides as follows:

(c) Congress consents to

\* \* \*

(2) the accepting by an employee of a gift of more than minimal value when it appears that to refuse the gift would be likely to cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States.

However, a gift of more than minimal value is deemed to have been accepted on behalf of the United States and shall be deposited by the donee for use and disposal as the property of the United States under regulations prescribed under this section.

Regulations promulgated under the Act require that gifts of more than minimal value be deposited with the Chief of Protocol of the Department of State. 22 C.F.R. §§3.5(c) and 3.3(j). No specific deadline for delivery of gifts is set by the statute or regulations, and neither the statute nor its implementing regulations

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provide for any sanctions, civil or criminal, against violators of the Act. Thus, although a violation of the terms of the Act would seem to have been committed in light of the fact that Mr. Agnew waited approximately three years before delivering to the State Department the gifts he received in 1971, we have concluded that, in view of the administrative rather than criminal background of the Act, it would be inappropriate to use the quasi-criminal sanction of probation revocation in this case.

The contents of this report have not been disclosed to anyone outside of the Department of Justice.

\*I hope our views will be helpful to you.

Sincerely,  
s/  
RICHARD L. THORNBURGH  
Assistant Attorney General  
Criminal Division

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APPENDIX B  
In the  
UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 1977 Civ.  
In re, Petition of Sam Polur, Petitioner

SAM POLUR  
Appearing Pro Se  
600 Biscayne Blvd.  
Miami, Florida 33132  
Tel: (305) 374-4479

TO: HONORABLE ROSZELE C. THOMSEN  
United States Senior District Judge  
United States Courthouse  
Baltimore, Md. 21201

HONORABLE RICHARD L. THORNBURGH  
Assistant Attorney General  
Criminal Division  
Department of Justice  
Washington, D.C. 20530

HONORABLE PAUL R. KRAMER  
Deputy United States Attorney  
United States Courthouse  
Baltimore, Maryland 21201

W. LEE HARRISON  
Attorney for Defendants  
401 Washington Avenue  
Towson, Md.  
Tel: (301) 332-8812

In the  
UNITED STATES COURT OF APPEALS  
for the FOURTH CIRCUIT

No. 1977 Civ.

In re, Petition of Sam Polur, Petitioner

PETITION FOR A PEREMPTORY WRIT  
IN THE NATURE OF MANDAMUS AND FOR  
A TEMPORARY STAY

To the United States Court of Appeals for  
the Fourth Circuit.

Petitioner moves for a peremptory writ in the nature of mandamus, and for a Temporary stay; and that jurisdiction exists, inter alia, pursuant to the Mandamus and Venue Act of 1962, 28 United States Code, section 1361, et seq.

1. This application is made for an Order to Show Cause instead of by way of Notice of Motion as time is of the essence, to prevent immediate and irreparable damages to the rights and interests of the United States of America and to the rights of your petitioner.

2. That prior to the resignation of of RICHARD M. NIXON as President of the United States, the Vice President of the United States, Spiro T. Agnew on October 10, 1973 had duly resigned from that Office; that resignation having been pro-

ferred under the threat of criminal indictment for a myriad of felonious activities duly enumerated and encompassed in a Criminal Information lodged against him by the Attorney General of the United States, then Elliot Richardson.

3. That in order to avoid a "traumatizing" experience to the American public the Attorney General recommended, and the Presiding Judge, Honorable Walter E. Hoffman, accepted a plea in open court of "Nolo Contendere" to the Felony of Tax Evasion, section 7201 of the United States Internal Revenue Code of 1954, being Count Number 1 of the multi-count Criminal Information aforesaid, in full satisfaction of the said Criminal Information; the charge accusing Spiro T. Agnew of having "wilfully and knowingly attempted to evade and defeat a large part of the income tax due and owing by him and his wife to the United States of America for the calendar year 1967 by filing and causing to be filed ... a false and fraudulent income tax return."

4. That on October 18, 1973 the Organization of Petroleum Exporting Countries (OPEC) and the United Arab Republic (UAR) jointly imposed an Oil Embargo on the United States and, concomitant therewith, effected a Blacklist of American firms and companies.

5. That Spiro T. Agnew, before and after his resignation has seemingly conspired with the OPEC and the UAR to cooperate in the Embargo, its resultant economic



convulsions in the economy of the United States and the entire Free World of Nations, and its direct strangulation by OPEC upon the importation of oil into the United States, and all its dominions and possessions.

6. That Spiro T. Agnew has cooperated and conspired and continues to cooperate and conspire in the Blacklist imposed by the UAR and OPEC upon the owners of financial, commercial and industrial concerns in the United States, which have such relations of a business or commercial or trade nature with the State of Israel, a friendly and strategically vital ally of the United States of America; all in flagrant and wilfull violation of the prohibitions found in sections 611-621 of Title 22 of the United States Code, and of section 951 of Title 18 of the United States Code.

7. That Education for Democracy, Inc., is an alleged Foundation, incorporated in Indiana, with its principal place of business in Crofton, Maryland, founded to allegedly be an instrument for education and enlightenment of the American citizenry, but is in reality an alter ego of and for the said Spiro T. Agnew.

8. That Education for Democracy, Inc., in reality, was duly incorporated and set up to be the alter ego and progeny of the said Spiro T. Agnew in his role as Foreign Agent and paid Propagandist for the OPEC and UAR; and to publish pro-Arab, anti-Israel propaganda, all in open and notorious

violation of sections 611 et seq. of Title 22 of the United States Code and section 951 of Title 18 of the United States Code.

9. That the said Spiro T. Agnew has personally contributed Twenty Thousand (\$20,000.) Dollars to the said Foundation, which he has admittedly caused to be organized and to function in the illegal manner aforesaid.

10. That Spiro T. Agnew and Education for Democracy, Inc. are jointly and severally violating Title 15 of the United States Code, sections 1 and 2 thereof, through predatory practices contrary thereto, by adhering to and participating in the conspiracy of the OPEC and the UAR to preserve their Oil Embargo and their Blacklist over and within the channels of the foreign and interstate commerce of the United States, and are also violating actually or by analogy the Freedom of Information Act (5 U.S.C. sections 552 and 552a).

11. That on or about September 10, 1976 Nationally-Syndicated Columnist Jack Anderson, together with his associate Les Whitten, duly had published in newspapers and other news media of some 30 million in circulation, an article stating the United States Department of Justice is currently investigating the role of Spiro T. Agnew and "Education for Democracy, Inc.", to determine whether there must be registration as a foreign agent. For clarity and continuity of the within motion, the text is herewith reprinted:

The Justice Department is examining Spiro T. Agnew's pro-Arab, anti-Israel activities to determine whether he must register as a foreign agent.

The former vice president heads a curious tax-exempt foundation called "Education for Democracy." Its July newsletter reads like a reprint from an Arab propagandist's tearsheet. At the same time, Agnew has become a middleman for deals between U.S. firms and Arab governments.

What the Justice Department wants to know is whether his foundation, newsletter or business deals receive any direction from foreign governments. This would be a violation of the criminal code.

For under the Foreign Agents Registration Act, anyone under the direction of another government, even in small matters, must register as a foreign agent. Agnew is not registered.

As we reported in an earlier column, the money behind Agnew's foundation doesn't come from Arab sources. He solicited contributions from such disparate friends as ex-presidential contender Ronald Reagan, convicted Watergate figure Maurice Stans, actor John Wayne, brewer Joseph Coors, lobbyist Bryce Harlow and Sen. Strom Thurmond.

Agnew even kicked in a \$20,000 contribution of his own to the foundation. But this only increases the curiosity of the Justice Department lawyers. They wonder, for example, where he got the \$20,000. Did it come indirectly from Arab sources.

They also want to know whether he publishes Arab propaganda in return for business deals. If there are any hidden Arab contributions or quid pro quos, Agnew could be in violation of the law.

It isn't likely that Agnew would be prosecuted for his activities, although violators can be sent to prison. The penalty probably would be no more than an Order to register forthwith as an agent for Arab clients.

But the registrations would open his files for inspection. He would be required to report personal and financial data. And since he was forced out of the vice presidency, Spiro Agnew has been extremely secretive about who is paying him.

Footnote. Agnew did not return our calls. His legal advisors insist, however, that he is not required to register under the Act.

12. That the ability of Spiro T. Agnew and Education for Democracy, Inc. to further the conspiracies herein alleged coincides with and augments their guaranteed power provided by the First Amendment of the Con-



stitution of the United States.

13. That Spiro T. Agnew and Education for Democracy, Inc. exercise their rights to its guarantee of Freedom of Expression by participating through their own published views in such conspiracy in derogation of the corresponding right of petitioner herein and the rights of persons residing in the United States and the citizens thereof to know of the respective relationships jointly and severally of Spiro T. Agnew and Education for Democracy, Inc. with the OPEC and the UAR and the member-Nations thereof, and of the amounts and sources of monies and other financial emoluments received, jointly and severally, by Spiro T. Agnew and "Education for Democracy, Inc." from the OPEC and the UAR and the member-Nations thereof.

14. That Spiro T. Agnew on October 10, 1973 was duly placed on probation for three years subsequent to being admonished by the Court to "violate no state or Federal laws" on pain of having his avoidance of a prison term thereby being reconsidered.

15. That, nonetheless, Spiro T. Agnew is violating the conditions of that probation, which this petitioner is duly asserting in this proceeding, by offending against the Sherman Antitrust Act, section 15 of Title 15 United States Code, being part of the Act of Congress of July 2, 1890, c. 647, 26 Stat., as amended, entitled "An Act to protect trade and commerce against

unlawful restraints and monopolies, commonly known as the Sherman and Clayton Act," Section 15 also being Section 4 of the Clayton Act, as amended.

16. That said Spiro T. Agnew is offending against the Sherman Antitrust Act, through preservation of the secrecy of the data which compelled him to resign as Vice President of the United States of America for alleged criminal activities; and he is, nonetheless, enjoying the right of Freedom of Expression, as guaranteed by the First Amendment to the Constitution of the United States.

17. That Spiro T. Agnew has the right to discuss public affairs in pursuance of that guarantee - but at all times commensurate with, and not superior to the right of the American people to know the details of his public life, his personal motives with respect to his, and "Education for Democracy, Inc.'s" expressed views of public policy; and the individual Spiro T. Agnew's interest and means, and the sources thereof, for influencing public opinion by his own utterances and the published statements of Education for Democracy, Inc., in further violation of Spiro T. Agnew's offenses against Federal statutory provisions.

18. That withholding by Spiro T. Agnew of relevant information in the premises constitutes a continuing breach of fiduciary duty by Spiro T. Agnew, while Vice President of the United States of America.



19. That all of which hereinabove recited constitutes to petitioner and to the public and the Government of the United States a denial of due process and Equal protection under the Fifth Amendment with respect to the correlative rights to Freedom of Expression under the First Amendment to the Constitution of the United States.

20. That the Blacklist by the OPEC and UAR and the member-Nations thereof, as hereinabove alleged, through the participation in said conspiracy by Spiro T. Agnew and Education for Democracy, Inc. therein is a restraint of trade and of commerce and is a monopoly or an attempt to monopolize the same in violation of sections 1 and 2 of Title 15 of the United States Code.

21. That Spiro T. Agnew and his alter ego, Education for Democracy, Inc., each and jointly, at all times material to this proceeding and petition has and have been acting as Foreign Agents without registering as such, all in violation of section 951 of Title 18 of the United States Code, entitled Chapter 45 - Foreign Relations.

22. That by reason of the said Spiro T. Agnew's access to Top Secret and Confidential information, including United States military, nuclear and contingent plans relating to National Defense of the United States of America from January 20, 1969 until October 10, 1973, and as a member of the highest National Security Council during said period, said

Spiro T. Agnew's adjudicated lack of character and his moral delinquency make his dealings of a secret nature with foreign potentates, who are avowed antagonists and opponents of our system of Democracy and our Republic form of Government, highly suspect and potentially of unimaginable danger to the very survival of our Nation in the Nuclear Age.

23. That such foreseeable dangers are explicit in the findings of Maryland's highest Judicial Tribunal that the said Spiro T. Agnew is "morally obtuse" and judicially found to "cheat for his own pecuniary gain that government that he is sworn to serve"; (emphasis added) and, therefore, at all times material to this petition, the said Spiro T. Agnew's accretion of financial and pecuniary gain from said Foreign potentates, the OPEC and the UAR remain highly suspect by any reasonable standard.

24. That it is a matter of record that Spiro T. Agnew accepted in 1971, while he was Vice President of the United States, inter alia, a custom-made diamond set of shirt studs and tie clasps with golf balls and tees on it from the King of Morocco; a diamond studded gold sheathed dagger (sic!) from the King of Saudi Arabia; multiple diamond and pearl jewelry from the Crown Prince of Saudi Arabia and, through his spouse, a set of rubies and pearls from the Crown Prince of Kuwait.

25. That, contrary to the Foreign Gifts and Decorations Act, Spiro T. Agnew failed to report or turn these valued gifts over

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to the State Department Office of Protocol until on or about April 1, 1974 - some 3½ years later, following their secret receipt.

26. That the Honorable Walter E. Hoffman, in sentencing Spiro T. Agnew upon his plea of "Nolo Contendere" aforesaid on October 10, 1973 also formally declared and duly signed the following Order:

IT IS ADJUDGED that imposition of sentence, as to imprisonment, be suspended, and the Defendant released on probation for a period of Three (3) Years, upon condition that Defendant at all times will be of uniform good behavior; that Defendant will not violate the laws of the United States, or any State; that as a further condition of Probation, Defendant is to pay a fine in the sum of Ten Thousand Dollars (\$10,000.00) within thirty days from this date or otherwise stand committed for nonpayment of said fine; and that Defendant shall not be required to be under the supervision of the Probation Officer of this Court unless otherwise ordered by the Court.

The Court added:

IT IS FURTHER ORDERED that during the period of probation the defendant shall conduct himself as a law-abiding, industrious citizen and observe such conditions of probation as the Court may prescribe. Otherwise the defendant may be brought before the Court for a violation of the Court's orders.

27. It is instructive that even while the learned Court was admonishing the defendant Spiro T. Agnew as cited hereinabove, nonetheless, at the very time of sentencing, a fraudulent concealment and unlawful failure to notify the Court of Spiro T. Agnew's wrongful and unlawful detention and conversion of the valuable gifts from foreign Arab potentates above described was occurring; all authority for the rule that a probation granted as a result of a fraudulent concealment may be revoked in the absence of any post-probation violation. Kelly v. United States, 235 F.2d 44 (4th Cir. 1956) and Acme Poultry Corp. v. United States, 146 F.2d 738 (4th Cir.).

28. That even while the Judge aforesaid was admonishing him, in the glare of notoriety and shame exposed to the entire world, Spiro T. Agnew flouted the law by fraudulent concealment of these priceless and valuable gifts belonging by law to the United States Government and not the persons receiving them. Foreign Gifts and Decorations Act of 1966, U.S.C. 1970 Title 22 sections 804, et seq.

29. That as a result of the said Spiro T. Agnew's fiduciary relationship in the premises to the American people and to the United States of America and to its Government as a free and sovereign Democratic Nation, his participation and that of his alter ego and legal progeny, "Education for Democracy, Inc.", as members of the respective conspiracies of the OPEC and the UAR and the member-Nations thereof, against the



even flow of commerce of the United States of America, are akin to Treason and are prohibited by section 951 of Title 18 of the United States Code.

30. That by reason of the allegations immediately hereinabove set forth, Spiro T. Agnew and Education for Democracy, Inc., are each, severally and jointly, duty bound to disclose to petitioner and to the public, information of a relevant nature in the premises which is not specifically exempted by the provisions of sections 552 and 552a of Title 5 of the United States Code.

31. That Spiro T. Agnew and his legal progeny and alter ego, Education for Democracy, Inc. at all times material to this petition, have been engaged in wilfull, illegal and criminal conduct, inimical to the United States of America and its citizens as hereinabove alleged.

32. That Spiro T. Agnew is a former Attorney at Law, currently disbarred from practice in every count in the United States by order of the unanimous decision of the highest Judicial Tribunal of the Commonwealth of Maryland, ruling his disbarment followed automatically upon said Spiro T. Agnew's conviction on charges involving moral turpitude and that:

It is difficult to feel compassion for an attorney who is so morally obtuse that he consciously cheats for his own pecuniary gain that government that he is sworn to serve, completely disregards the words of the oath he

uttered when first admitted to the bar, and absolutely fails to perceive his professional duty to act honestly in all matters. - Maryland State Bar Ass'n, Inc. v. Spiro T. Agnew, May, 1974, 318 A.2d 811.

33. That because of the above-cited moral obloquy found as a matter of law to adhere to the said Spiro T. Agnew, and from which Order and Judgment the said Spiro T. Agnew has never appealed, it follows irresistibly that such an individual, adjudicated morally delinquent, cannot with impunity or pursuant to exemption advocate the interests of foreign nations in conflict with the Constitution and Laws of the United States of America without full disclosure of his motives and the means furnished for his advocacy.

34. That Spiro T. Agnew and his alter ego and legal progeny, Education for Democracy, Inc., are continuously conspiring at all material times in this petition, to "repay" and to further "earn" and receive substantial recompense for the aforesaid and other valuable gifts, emoluments, monies and things of great value from the aforesaid leaders of OPEC and the UAR, and other Nations similarly situate, at this time unknown to petitioner; and all contrary to, and injurious to the economic, political, military and industrial interests of the United States of America and its citizenry - all of whom have an abiding interest in seeing that their leaders are not bribed, "bought", traduced or blackmailed through the acceptance of priceless



gifts, emoluments and other things of value financially and personally.

35. That by reason of the foregoing allegations, Spiro T. Agnew and his alter ego and legal progeny, Education for Democracy, Inc., at all material times herein have been and continue to be in violation of sections 611 et seq. of Title 22 United States Code, on the ground that Spiro T. Agnew and Education for Democracy, Inc. have failed, jointly and severally, to register as a Foreign Agent and Propagandist, as duly provided for in the within cited Federal statute.

36. That by reason of the above allegations set forth, Spiro T. Agnew and Education for Democracy, Inc. are each, severally and jointly, duty bound to disclose to petitioner and to the American public, information in the premises not specifically exempt by the provisions of sections 552 and 552a of Title 5 of the United States Code.

37. That Spiro T. Agnew, during his term in Office as Vice President of the United States of America, as aforesaid, and contrary to the Laws and Statutes and the individual Oath of Office undertaken by Spiro T. Agnew as provided by the Constitution of the United States - nonetheless, inimical to the moral, ethical concepts upon which our Nation and its leadership is is presumably firmly founded, by soliciting receiving and accepting in secret such valuable gifts, emoluments and jewelry as known - and,

presumptively, much, much more than has been reported by Spiro T. Agnew - has, ineluctibly, permitted himself to be vulnerable to reasonably expectable blackmail, extortion and other related onslaughts from his secret benefactors and foreign potentates; especially so should Spiro T. Agnew's stated public pronouncements and private and public deeds during, or subsequent to, his said Term of Office as the second highest elected official in the United States vary from those of his foreign potentate donors, the rulers of the OPEC and the UAR and the member-Nations aforesaid.

38. That all of the above cited secret "deals" between the said Spiro T. Agnew, his alter ego and legal progeny, Education for Democracy, Inc., although spawned in the dark, have, of necessity, created public and visible effects, assuredly known to and "investigated" by the Department of Justice and its United States Attorneys.

39. That there has been no public or other disclaimer of the articles by Nationally-Syndicated Columnists Jack Anderson and Les Whitten, heretofore set forth seriatim in part, by the Justice Department of the United States, irresistibly leads to the conclusion that the essence of the said report is accurate and trustworthy - at least insofar as reporting the illegal activities of the two defendants herein.

40. That the entire historic shock to the American Government and its peoples resulting from "Watergate" and its aftermaths, surely

mandate that any "veil of secrecy" thus far thrown about the said investigations, as reported supra, that Spiro T. Agnew and Education for Democracy, Inc., are Foreign Agents and Propagandists who have, contrary to the statute so providing, failed to register as such, be removed and discarded. Of course, the letter by the Assistant Attorney General Thornburgh, almost frivolous in its stated failure to so much as question Mr. Agnew on January 14, 1977, must be deemed to be a nullity in view of its further insinuation into the Judicial Orbit the Executive is forbidden to enter upon.

41. That your petitioner is a resident and citizen of the State of Florida and the United States of America.

42. That between August 1974 and June 1976, petitioner was the lawful owner by purchase of 2,000 shares of Occidental Petroleum Corporation shares at an approximate cost of \$19,500.00 together with 1,000 shares of Standard Oil of California stock at an approximate cost of \$30,500.00. (The June 1976 date is in error)

43. That as a result of the participation by the said Spiro T. Agnew and his alter ego and legal progeny, Education for Democracy, Inc., in the said Embargo and Blacklist imposed, respectively, by the OPEC and the UAR member-Nations, in conspiracy with the said Spiro T. Agnew and Education for Democracy, Inc., petitioner suffered in his financial holdings aforesaid and failed to earn reasonably foreseeable profits therefrom.

44. That by reason of the foregoing conspiracies as alleged, petitioner has been damaged in a monetary sum in excess of \$10,000.

45. That by virtue of the foregoing, petitioner is properly before this Forum in that by virtue of Section 1332 of Title 28 of the United States Code, this Court has jurisdiction over the parties and the subject matter of this proceeding and petition herein.

46. That petitioner, accordingly, has demonstrated (1) a clear right to the relief sought; (2) a clear duty in the respondents to do the act or acts in question; and (3) no other adequate remedy is available (Burnett v. Tolson, 474 F.2d 877, 880 (4 Cir. 1973)).

47. That no previous application for the Order to Show Cause herein has been made.

48. That no previous application for the within Peremptory Writ in the Nature of Mandamus has been made.

49. That no previous application for the within prayer for a Temporary Stay of Court Proceedings has been made.

WHEREFORE, petitioner prays that the hearing scheduled for March 14, 1977 at 10:00 o'clock in the forenoon of said day, before HONORABLE ROSZELE C. THOMSEN, Senior United States District Court Judge, in Room 7B at the United States Courthouse, 101 Lombard Street West, Baltimore, Maryland 21201 be enjoined and the parties thereto be restrained from conducting a hearing in the premises until the further Order of this Court and upon the conditions to be set forth therein; together with such other and further relief as this Court deems necessary and appropriate in the premises.

Dated: New York, New York.  
March 10, 1977.

Respectfully  
submitted,

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Service

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THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

-----X  
THE UNITED STATES OF AMERICA, :  
vs. :  
SPIRO T. AGNEW, : CRIMINAL  
----- Defendant. ----- X No. 73-0535

Before:

Hon. Roszel C. Thomsen,  
Senior District Judge

Baltimore, Maryland  
March 14, 1977-10 a.m.

APPEARANCES:

Jervis S. Finney, Esq.  
United States Attorney  
For the Government

By: Paul R. Kramer, Esq.  
Deputy United States Attorney  
Griffin Bell, Esq.  
Attorney General of the United  
States

By: George W. Calhoun, Esq.  
Patrick John Glenn, Esq.  
Assistant Deputy Attorneys General  
W. Lee Harrison, Esq.  
Attorney for Defendant  
Samuel Polur, Esq.  
Attorney



P R O C E E D I N G S

THE COURT: Good morning.

THE CLERK: Criminal Docket No. 73-0535,  
The United States of America vs. Spiro T.  
Agnew.

Counsel for the Government, Paul R. Kramer; for Mr. Agnew, W. Lee Harrison.

MR. POLUR: Your Honor, may I be heard  
a moment?

THE COURT: Anything you want to say,  
come up to the podium.

MR. POLUR: Thank you, your Honor.

I would respectfully state to the Court  
I want to put something on record.

My name is Sam Polur. I am an attorney  
and a citizen of the United States and I  
am very respectfully objecting to this  
hearing because of the lack of jurisdiction  
of the Court in the premises upon the fol-  
lowing grounds, your Honor: The elasticity  
of Federal procedure - -

THE COURT: You will be given an oppor-  
tunity to speak later.

MR. POLUR: All right. Thank you, your  
Honor.

THE COURT: On October 10, 1973, Spiro

T. Agnew, the defendant herein, entered a  
plea of nolo contendere to a one-count crimi-  
nal information charging him with evasion  
of federal income taxes in violation of 26  
U.S.C. 7201.

On the same day Judge Walter E. Hoffman  
of the Eastern District of Virginia, sitting  
by designation, accepted that plea and im-  
posed a sentence of \$10,000 fine and three  
years unsupervised probation. The plea  
was entered immediately after Agnew had re-  
signed as Vice President of the United  
States. As part of an agreement leading  
to that resignation, the Attorney General  
recommended to Judge Hoffman in open court  
that no prison sentence be imposed.

On September 30, 1976, Sam Polur, a  
member of the bar of New York, residing in  
Florida, filed a civil action in this Court  
against Agnew and Education for Democracy,  
Inc., claiming substantial damages against  
each of them for alleged violations of  
several federal statutes.

On October 5, 1976, Polur moved, in  
that civil action, for "an Order to Show  
Cause why Spiro T. Agnew should not have  
his probation revoked during the balance  
of the term thereof, prior to the expira-  
tion of the three-year period of probation  
duly imposed upon the said Spiro T. Agnew  
by this Court on October 10, 1973." Polur  
based his motion on the allegations con-  
tained in his civil complaint and "attorney's  
affirmation" in support of his motion.

The civil case was routinely assigned to me, and on October 8, 1976, a hearing was held on that motion, attended, at the court's request, by Paul R. Kramer, the Deputy United States Attorney, and W. Lee Harrison, an attorney who appeared specially on behalf of Agnew.

After hearing from Polur and the attorneys whom the court had requested to attend, the court read and filed the following statement:

"Section 3653 of Title 18 USC, provides in pertinent part that at any time within the probation period, or within the maximum probation period permitted by subsection 3651, "which is five years", the court for the district in which the probationer is being supervised may issue a warrant for his arrest for violation of probation occurring during the probation period. Requests for such warrants are usually made by the probation officer who has supervision of the probationer or by the chief probation officer of the district. In the case of United States v. Spiro T. Agnew, however, Judge Hoffman did not require that the probationer be under supervision.

"Nevertheless, a court can act upon information brought to its attention by the United States Attorney or other representatives of the Department of Justice or by other sources.

"The plaintiff in this civil case has made allegations some of which, if proved in this case or otherwise shown to be true, might justify this court in taking appropriate action under subsection 3653.

"At the present, however, these are mere allegations with one exception: the material contained in the recommendation of the three-Judge panel and the opinion and order of the Court of Appeals of Maryland and the disciplinary proceedings brought against Spiro T. Agnew. That proceeding dealt with his activities before his conviction and, therefore, cannot be the basis for the revocation of probation which plaintiff seeks. See 18 USC 3653 summarized above.

"Moreover, the allegations are made by plaintiff in a civil action in which he seeks to obtain more than one million dollars in damages from the defendant Agnew. They are not supported by a convincing affidavit or affirmation.

"The court concludes that it should not take any action in the criminal case at this time, except to request the Department of Justice to investigate the allegations, if the Department has not already done so, and to recommend to this court whether the court should take any action in the criminal case, and if so, what action."

This court received a report and recommendation of the Department of Justice on



February 22, 1977.

The report dealt with two groups of allegations made by Polur which, if shown to be true, might be appropriate grounds for revocation of probation.

With respect to allegations that Agnew has failed to register as a foreign agent in connection with his work for Education for Democracy, Inc., the Department of Justice has concluded, after meeting with Agnew, his attorney and the Secretary-Treasurer of Education for Democracy, Inc., and after reviewing various corporate records, that "there was no reason to believe that Mr. Agnew, through Education for Democracy, has acted on behalf of or in the interest of any foreign principal in violation of the (Foreign Agents Registration) Act."

With respect to allegations that Agnew failed to report or deliver to the State Department until April 1, 1974, a number of gifts which he had received from officials of foreign governments while he was Vice President, in violation of the foreign Gifts and Decorations Act, the report concluded that although there had apparently been technical violations of the Act as a result of Agnew's delay in delivering to the State Department gifts received in 1971, "in view of the administrative rather than criminal background of the Act, it would be inappropriate to use the quasi-criminal sanction of probation revocation

in this case."

Upon receipt of the Department of Justice report Judge Hoffman and I discussed the situation and agreed that we should ask Chief Judge Haynsworth of the United States Court of Appeals for the Fourth Circuit to decide whether Judge Hoffman or I should consider what if anything further should be done in this criminal case.

That request was made and Judge Haynsworth notified me of his conclusion that I should handle the matter.

Accordingly on March 3, 1977, I scheduled this hearing for the purpose of deciding whether any further proceedings with respect of possible revocation of Agnew's probation was warranted.

The proceeding today is not a hearing to determine whether Agnew's probation should or should not be revoked, nor is it technically what in this district is called "a probable cause hearing" which is held before a district judge or a United States Magistrate for the purpose of determining whether there is probable cause or reasonable ground to believe that the probationer has committed acts that would constitute a violation of probation conditions. Such a probable cause hearing is normally precipitated by a petition of the Probation Department charging the probationer with specific violations of his probation



and requesting that a probation revocation hearing be held. No such petition or request has been filed or made in this case by the Probation Department or by any representative of the Department of Justice.

The present proceeding, therefore, is to determine whether a formal probable cause hearing or some other appropriate proceeding is warranted under the circumstances in light of what has thus far been brought to the court's attention or may be forthcoming here today.

Now, Mr. Graham, in order to start the ball rolling on this, if you will take this to Miss Leonard and ask her to start typing after I have finished with the next four lines you can take it to her.

Mr. Kramer, as Deputy United States Attorney for this district, do you recommend that Agnew be charged with a violation of his probation?

MR. KRAMER: If it please the Court, I will answer the question in a moment but at the same time I would like to introduce --

THE COURT: Would you come over so everybody will have the benefit of the microphone.

MR. KRAMER: If it please the Court, before I may respond, I'd like to introduce two other persons who are in the courtroom who are also here on behalf of the United States Department of Justice.

Sitting in the back, behind and on the green chair is Mr. George W. Calhoun who is the Chief, Special Litigations Section of the Criminal Division of the Department of Justice, and also Mr. Patrick John Glenn who is sitting next to me at counsel table who was here at the last proceeding. Both of these gentlemen are from the Department of Justice.

I also, your Honor, at my request asked that these gentlemen, if they would jot down the procedure that was followed and those who reviewed the government's report, the Department of Justice report, as to the dates the various recommendations within the Department of Justice were made.

I have such a letter. If your Honor wishes it, I would certainly make them part of the proceedings, and of course, Mr. Calhoun who is most familiar could address himself to that if your Honor desires. We could do both.

Your Honor, I have spoken since the time your Honor requested the Department of Justice to review the allegations by Mr. Polur, and have been in telephone conversation with a number of persons at the Department of Justice, particularly those who have been doing the review.

I have spoken to them and I am aware of the procedures they followed and the times they did it and their recommendation and the dates.

I am satisfied the review was done conscientiously by career members of the Department of Justice and later reviewed by officials of the Department of Justice from actually both administrations.

THE COURT: Would you read that last back?

(Record read as requested)

MR. KRAMER: It is a coincidence that in the process of writing out the reports and getting them reviewed, that it took time and of course covered the change of administrations. They were actually reviewed by persons who were appointed in both administrations.

However, it was done by line attorneys within the Department and the different divisions based on the information as indicated to your Honor in a letter to the Court when I forwarded the review to the court earlier.

Based on this I am satisfied to recommend on behalf of the Department of Justice that no action be taken based on the allegations.

There was nothing found in the review that would cause the Department of Justice to warrant making further inquiry.

The law, of course, which has caused the resignation and the conviction of the Vice President is the same law which protects the Vice President from harassment. He must be looked on as any other probationer. In doing that we make the recommendation that we make today.

Your Honor, do you want that copy of the letter here from Mr. Calhoun?

THE COURT: I would like to have the letter. Is Mr. Calhoun going to speak?

MR. KRAMER: If your Honor wishes.

THE COURT: Let me read the letter. I think the thing for me to do is to read it aloud.

MR. KRAMER: I have no objection.

(Counsel hands document to the court.)

THE COURT: Do you have a copy? Do you want to read it? You may read it. Well, I guess I am reading from the letter to the United States Attorney for the District of Maryland, attention Paul R. Kramer, Deputy United States Attorney.

(Reading) "Re: United States v. Agnew, Criminal No. 73--0535.

"Dear Sir:

"This is in response to our telephone conversation with Mr. Kramer regarding the procedures employed in the recent review by the Department of allegations of Probation Violations by former Vice President Agnew. That review was initially conducted by line, career attorneys in the Department, and their recommendations were reviewed and approved by former Assistant Attorney



General Thornburgh and by newly-appointed Attorney General Egan for Attorney General Bell.

"Specifically, the inquiry into the return of gifts from foreign governments was conducted by line attorneys in the General Crimes Section of the Criminal Division, who submitted their recommendation to a Deputy Assistant Attorney General of the Division on January 5, 1977.

"The investigation of possible violation of the Foreign Agents Registration Act was conducted by line attorneys of the Internal Security Section of the Criminal Division. Those attorneys met with Mr. Agnew and the Secretary-Treasurer of Education for Democracy, Inc. on January 14, 1977, to examine the books and records of that corporation. On January 19, 1977, the Internal Security Section submitted its recommendation.

"Line attorneys of the Special Litigation Section then reviewed the recommendations of the other sections and drafted the letter to Judge Thomsen from former Assistant Attorney General Thornburgh recommending against revocation. That letter was transmitted by this section to Assistant Attorney General Thornburgh, who was then the Acting Deputy Attorney General, on February 10, 1977. Before he signed the letter, Associate Attorney General Egan reviewed it for the office of the Attorney General and he approved it.

"I hope this information will be helpful to you.

"Sincerely, George W. Calhoun, Chief, Special Litigations Section, Criminal Division."

Earl, would you give this to Graham Bush and ask him to make a dozen xerox copies of it.

MR. KRAMER: Your Honor, I think it's important in noting since you read the letter as a matter of record that such a procedure is unusual only in its nature as the unusualness of these proceedings in and of themselves and of course because of the individual involved.

This is, as I indicated earlier, a most unusual thing, but the government thought it was important that the matter be carefully reviewed by all parties within the Justice Department before making a recommendation to your Honor.

If there is anything else, I would be happy to respond upon or any questions you may have with the representatives from Washington.

THE COURT: Not unless they wish to say something. I think the letter is clear as to what was done.

If any of them wish to say anything, I will hear from them. I am not asking them to say anything.



MR. KRAMER: All right, thank you, sir.

THE COURT: The Probation Department of this Court is an Agency of this Court and is completely independent of the Department of Justice. Therefore, immediately after Judge Haynsworth designated me to handle this matter, I asked the Chief Probation Officer of this District to give the Court its recommendation as to whether Spiro T. Agnew should be charged with violation of his probation. He assigned the case to Paul R. Falconer, the Deputy Chief Probation Officer. Mr. Falconer is here today.

Mr. Falconer, has the Probation Department investigated the matters raised in Mr. Polur's complaint and do you recommend that Mr. Agnew be charged with violation of his probation?

MR. FALCONER: If your Honor, please, I addressed my inquiry to two principal allegations in the proposed Show Cause Order filed by Polur.

The first, that the probationer has failed to register as a foreign agent in connection with his activities for Education for Democracy, Inc., and secondly, the probationer violated the Foreign Gifts and Decorations Act of 1966 by failing to timely deposit with the Office of Protocol of the Department of State certain gifts of more than a nominal value received during his tenure as an employee of the United States.

With respect to the first allegation I have studied the report of the Assistant Attorney General in charge of the Criminal Division and also discussed it with Deputy U.S. Attorney Paul R. Kramer.

I have conclude that since Department of Justice has found no apparent violation of law in the probationer's association with Education for Democracy Inc. nor any responsibility on his part to register as an agent for foreign government there is no basis for any contrary finding by my department.

With respect to the second allegation, I have conferred with the officials in the Office of the Chief of Protocol of the Department of the Department of State, examined their records dealing with gifts from foreign governments to the probationer during his term of office, and studied the foreign gifts declarations act and attendant regulations.

I have concluded that since no time limits are specified in the law nor are there any civil or criminal sanctions attached thereto, there is no basis for a citation for alleged violation of probation.

The fact that the probationer complied with the provisions of this essentially administrative regulation well within the limits set by his period of probation further supports the conclusion in my views.

Accordingly, it is the recommendation of

my Department that no citation for alleged violation of probation be ordered by the court.

THE COURT: Do you have a copy of your statement?

MR. FALCONER: No, sir. I was just speaking from some notes. I can prepare a copy.

THE COURT: No. What I will do is have the court reporter write up what you said so it will be available to everyone here today.

Sam Polur was notified of this hearing and although he is not a party to this criminal proceeding, I intended to offer him an opportunity to express his views.

He has mailed me a copy of the petition for mandamus against me and others which he filed on Friday afternoon in the United States Court of Appeals for the Fourth Circuit seeking to enjoin this proceeding.

No order has been entered thereon but it has been assigned to a panel of three judges for consideration.

I spoke this morning to the senior judge of that panel and told him that I proposed to hold this hearing in this court today but not to render any decision herein until the Fourth Circuit has ruled on Polur's petition.

Mr. Polur, do you wish to say anything at this time?

MR. POLUR: Your Honor, excuse me, I want to thank the court to indulge me this courtesy at this time, to start with.

Your Honor, I intend to type up a brief that I have written and read into the record. It's a short one and I did it all last night and I didn't get a chance today to have it typed up.

The elasticity of federal procedure in combining pleading and proof (A.S. Abell Co. v. Baltimore Typographical Union, No. 12, 338 F.2d 190 (4 Cir. - 1964); A.S. Abell Co. v. Chell, 412 F.2d 712 (4 Cir. 1969); United States Trust Co. v. Sears, 29 F. Supp. 643, 2 F.R.Serv. 12Cz4 Case 1 (D.Conn. 1939); Palmer v. Palmer, 31 F.Supp. 861, 2 F.R.Serv. 12CZ1, Case 1 (D.Conn. - 1940); 2A Moore's Federal Practice S12.15 page 2347-2;48; Id., 1976-77 Supp. page 162), eliminating the distinction between law and equity (McAfoos v. Canadian Pacific Steamships, 243 F.2d 270 (2 Cir. 1957); cert.den. 355 U.S. 823 (1957), disregarding the theory of the complaint, Gins v. Mauser Supply Co., 148 F.2d 974 (2 Cir. 1965), and permitting relation back, pursuant to Rule 15(c) 28 U.S.C.A., where notice of the new claims or allegations were implicit from the origin of the proceedings (Longbottom v. Swaby, 397 F.2d 45 (5 Cir. 1968); United States, etc. v. Guy M. James Construction Co., 390 F.Supp. 1193, 1201-1203 (USDC M.D. Tenn. Northeastern Division (1972); affd. without opinion, 489 F.2d 756 (6 Cir. - Docket No. 73-1311, Jan. 29, 1974), affords ample opportunity for this Court to



determine the issues which are the subject matter of the companion appeals and of the pending application to the United States Court of Appeals for mandamus, as a consolidated case, either as a separate controversy under Cohen v. Beneficial Loan Corp., 337 U.S. 541(1949), or as an original petition for mandamus (LaBuy v. Howes Leather Co., 352 U.S. 249 (1957); United States v. Honorable Jon O. Neuman, U .S.C.A. 2 Cir. - Jan.25, 1977(New York Law Journal, Feb. 18, 1977, pg.1,col.6), or as seen as an application for a writ under either the Sherman Act or the Judicial Code or both (De Beers Consol. Mines v. United States, 325 U.S. 225 (1945)).

To conjure up a suppositious state of facts, that would create more profound issues or a more unprecedented question of Constitutional Law and Jurisprudence than does the present position of the Department of Justice in implying the existence of what is tantamount to an inaugurating Statute of Limitations before the Foreign Gifts and Decorations Act, Title 22 United States Code, section 804 et.seq., applies to a conceded violation of its substantive provisions, might baffle the most fertile juristic imagination.

In Matter of Doyle, 257 N.Y. 244 (1931), Chief Judge Cardozo declared for the Court (256):

"A statute of limitations is equivalent to an act of amnesty when the crime erased by lapse of time is one standing by itself, and is not a clue

to the commission of other crimes thereafter (Brown v. Walker, 161 U. S. 591, 598; 4 Wigmore on Evidence, S 2279). Clearly it is no such equivalent when the crime is a continuing conspiracy, unaffected by any limitation till the combination is abandoned (United States v. Kissel, 218 U.S. 601)."

The prosecutor's implication of a period of time, wholly undefined, for the suspension of the application of the Act and of its condemnation of the receipt of the prohibited and of each defendant's participation in a continuing conspiracy, and his own complementary assumption of unbounded power to grant amnesty for their acceptance and consequences, introduce into the statute unnecessarily, and in defiance of an entrenched canon of construction (United States v. Jin Foy Moy, 241 U.S. 394, 401 (1916)), constitutional issues of the utmost gravity. Matter of Doyle, supra, adjudicates conclusively that neither Congress, nor a State Legislature, nor any Committee of either, can grant, or authorize the grant, by their respective representatives of special prosecutors or by the prosecuting attorneys or United States Attorneys of, amnesty, unless the express authorization or resolution has been approved by the Executive, to endow the grant with the sanction of a statute.



Very respectfully, your Honor, I would read one more paragraph. This is illustrative of what the United States Justice Department failed to do despite the clear order of this court to investigate Mr. Agnew and charges I have made respecting him.

On page 6 of my show cause order it says the following; now I will read only one paragraph at the very top of the page.

THE COURT: Is this some paper you filed with the Court of Appeals? Are you reading from something?

MR. POLUR: Yes, from the Show Cause Order of October 8, one paragraph.

THE COURT: If this isn't a show cause order; it's on your request for the show cause order?

MR. POLUR: I am sorry, your Honor, I apologize.

THE COURT: I didn't understand that any order had been signed.

MR. POLUR: No, it had not. This is my requested order to show cause that was denied. I said the following -- this is part of the probation officer's statement they investigated the show cause order together with the complaint -- it says the following:

"IT IS FURTHER ORDERED, that Spiro T. Agnew show cause why the said probationary period of three years from October 10, 1973, should not be revoked because the said Spiro T. Agnew has in the very highest councils of our Government been privy to and had access to Top Secret and Confidential information, including United States Military, Nuclear and Contingent plans relating to the National Defense of the United States of America from January 20, 1969 until October 10, 1973, and was a member of the highest National Security Council during said period; has been invested with the secrets which could prove invaluable and priceless to foreign powers, political, military, e.g., an awareness of where our secret supplies and depots of oil are and the quantity of same --"

THE COURT: That is in your request for show cause order and it is the order which you wanted them to sign which they have not signed?

MR. POLUR: That is correct, your Honor. But it's my understanding, your Honor, that is the order of your Honor of October 8, and I think it said: "Request the Department of Justice to investigate the serious allegations made by Mr. Polur in this matter."

It was my understanding that the

complaint, the civil complaint and the order to show cause contains serious allegations and it's my respectful opinion that the Department of Justice abrogated judicial powers that it did not have and has made judicial rulings that it does not have and granted amnesty it does not have the power to do. It totally ignored your Honor's request to investigate, in my opinion, and I would like to read one last paragraph illustrative of that.

On page 2, your Honor, of the letter from Mr. Thornburgh in my view this is the gist of the entire alleged investigation. It says the following:

"With regard to the allegations that Mr. Agnew has violated Foreign Agents Registration Act, 22 USC Section 691 (sic!), et seq., by his failure to register, Department of Justice Attorneys met on January 14, 1977, with Mr. Agnew, his attorney, and the secretary-treasurer of the Education for Democracy, Inc., to determine whether the corporation and/or Mr. Agnew had incurred an obligation to register under the Act."

It then concludes with this sentence:

"After review of the corporation's correspondence files, minutes of corporate meetings, checkbook, bank statements, membership and contribution lists and other financial re-

cords, it was determined that there was no reason to believe that Mr. Agnew, through Education for Democracy, has acted on behalf of or in the interest of any foreign principal in violation of the Act."

In my respectful opinion, your Honor, that statement I believe is in defiance of your Honor's request to investigate. Mr. Agnew clearly was not asked to testify under oath. There is clearly no subpoenaing of any records. They brought what they chose to bring. There is no way I think that any lawyer could accept that statement which goes to the heart of the entire case, which is an exercise of the dispensing power and amnesty as I stated.

There is no way that can be construed as investigation. They just looked at the financial records of a corporation that the corporation chose to bring. Mr. Agnew was there and nobody questioned him. Apparently the serious charges that this citizen of the United States has made that Mr. Agnew was privy to the National Security Council secrets was a disbarred attorney, a discredited former Vice President, a man who accepted food parcels for 15 years, and that is a matter of record, from a food chain store a man should be allowed to act on behalf of Arab potentates to deal with the people on a foreign level, could correspond with them and to deal with them unsupervised, I respectfully maintain that charge was never investigated and that charge



strikes at the heart of the security of the United States of America and I frankly do not understand why an investigation was not made of that.

I do not further know why the Department of Justice didn't choose to ask me to testify as to what I may know about these allegations. I do not know why there was no testimony under oath from anybody.

THE COURT: Do you have any personal knowledge aside from what you have read?

MR. POLUR: I have personal knowledge of the foreign gifts and decorations violations, but your Honor, I respectfully conclude. I don't want to burden the court. I wanted it part of the record. Thank you.

THE COURT: Mr. Harrison I see in here. He has an attorney for Mr. Agnew who attended the hearing in the civil case without formally entering his appearance and I think in this matter I notice his presence and ask him if he wishes to say anything at this time.

I guess at this stage of this case if you say anything you are saying it on behalf of Mr. Agnew and it constitutes some sort of appearance for him. It is, of course, an unusual situation.

MR. HARRISON: Yes, your Honor. I have

filled out a form entering my appearance today and I will ask the court's indulgence because I am recuperating from rather serious injuries, have not been released by a doctor as yet, but felt this was important enough to appear.

I would, although it may seem superfluous, I would like to point out to the court that the gifts or so-called gifts to public officials or dignitaries falls from various categories as your Honor well knows. Those by foreign governments of a value in excess of \$50 were taken into custody by the State Department immediately upon presentation.

I might also say to the court that we can furnish the court with documentary evidence of this if you so wish that Mr. Agnew in April of 1974 entered into an agreement with the University of Maryland where all of his papers and personal gifts received by him other than those retained by the State Department, those being in excess of \$50 in value --

THE COURT: You mean the State Department retained those in excess of \$50 and gave him back those less than \$50?

MR. HARRISON: The procedure is, and to make this clear, there has been much about it, there was a question as to a jeweled dagger. Mr. Agnew never got his hands on it. There was a State Department representative present when the presentation was made who immediately took cus-



tody, logged it in, and it became the property of the U.S. Government.

If the dignitary, the foreign dignitary ever came here and it was necessary to exhibit this gift, there would be a slip executed "withdrawn from the State Department." Mr. Agnew would then have possession of it while the foreign dignitary was here and then it would be sent back and logged back in.

Now, those gifts in value of less than \$50, determination being made by the State Department, could become the personal property of the recipient. Also those gifts from private parties, for example, and I don't wish to embarrass anyone but I would point out that there was a T-shirt that was presented by the Honorable Jervis Finney long before he was ever the U.S. Attorney, a golf shirt hardly worth \$50 but nonetheless --

THE COURT: I might say for the benefit of everyone in attendance that one of the reasons that I asked Mr. Kramer to come rather than Mr. Finney at the very beginning to investigate the matter is that I knew that Mr. Finney had been a Senator, I believe, from Baltimore County or a representative, a delegate from Baltimore County at the time Mr. Agnew was either the County Executive or Governor but whatever it is Mr. Kramer, of course, is a career man in the local United States Attorney's office who was here long before

Mr. Bell came and has served under -- Did you come in under Mr. Tydings?

MR. KRAMER: Yes, sir, I was appointed by Mr. Tydings.

THE COURT: You have served under Mr. Tydings, and Judge Kenney and under Steve Sachs.

MR. HARRISON: And to continue, I might say to your Honor that all of the items of less than \$50 in value or those which the State Department did not wish to take as its property, some 600 cartons of which were turned over to the University of Maryland and we do have correspondence between the University of Maryland, GSA, and the State Department and also an executed agreement between Mr. Agnew and the University of Maryland signed by President Elkins which was dated April of 1974. I'd be happy to furnish that correspondence if the court deemed necessary.

THE COURT: I think it would be helpful to have some sort of exhibit.

MR. HARRISON: I have extra copies here. I will be happy to give it to your Honor right now. If the Court please, I start with a gift of papers and historical materials of Spiro T. Agnew to the University of Maryland dated April 10, 1974.

THE CLERK: Do you want to mark this as an exhibit?

THE COURT: Yes, I think they may be marked. You are appearing for Mr. Agnew This is Agnew Exhibit 1.

MR. HARRISON: Yes, I am appearing on his behalf and have entered my appearance, if the court please.

THE CLERK: Marked as Agnew Exhibit I in evidence. (Agnew Exhibit No. 1 was received in evidence.)

MR. POLUR: Your Honor, I very respectfully object to the fact that Mr. Agnew has not appeared for himself to testify under oath as to these documents.

These are certainly not the best evidence of anything.

THE COURT: They purport to be xerox copy of the agreement signed by Mr. Agnew and by the President of the University of Maryland.

If the court should have it certified by the President of the University, I will consider any such request.

I am not sure it should be granted. I want to see what other papers there are, but you may come and look at this.

MR. POLUR: No, your Honor, I am objecting to the submission of anything by anybody other than Mr. Agnew. If they purport to be his documents, he should submit.

THE COURT: Well this is a list here.

MR. POLUR: This is a selective submission just like the selective investigation, in my respectful opinion, your Honor. The submission of voluntary things that they don't purport to investigate anything with. He probably has 50,000 documents, your Honor -- a man who has been the Vice President for 4 1/2 years.

THE COURT: I am not intimating any opinion as to what weight or even admissibility it may have. I don't think you have the right to object to this admissability. I think I will let them be marked as Exhibit No. 1 and the court will give them such weight, if any, as the court thinks they are entitled to on the issues. I don't see what else I can do here.

MR. POLUR: I respectfully object to the proceeding, but is it, for the record.

MR. HARRISON: May I proceed, your Honor?

THE COURT: Yes.

MR. HARRISON: I respectfully offer a letter from the United States of America appearing on the letterhead of the United States of America, General Services Administration under date of January 20, 1974 to Mrs. Maxine Cheshire, the Washington Post, which among other things points out the difference in the categories of gifts and states that "GSA, in conjunction with the Department of State and other



concerned parties, is now in the process of determining the appropriate disposition of all of these gifts in accordance with applicable law and regulation. That is June 28, 1974, if the court please.

THE CLERK: Agnew Exhibit 2. (Agnew Exhibit No. 2 was received in evidence.)

MR. POLUR: Your Honor, I respectfully request the court to order Mr. Agnew to be here and to testify under oath about other matters and about each of these so he can be questioned, these selective submission of documents, of their nature.

Your Honor, I think this is an impertinence (Tr. reads "inappropriate" (sic!)). I think without Mr. Agnew testifying under oath the court cannot conceivably weigh the validity, in my view, and I respectfully request an order for him to appear to testify under oath as to these grave charges because apparently the Justice Department didn't see fit to do that.

THE COURT: By reason of the paper you have filed with the Court of Appeals I feel I should make no such order at this time of any sort. I will not make a decision for or against Mr. Agnew at this time until the petition for mandamus you have filed against me has been determined.

MR. POLUR: I respectfully except, your Honor.

MR. HARRISON: My next is January 22, 1975, a letter from the University of Maryland, Wilson H. Elkins, President, addressed to the Honorable Arthur Sampson, Administrator, General Services Administration, Washington, D.C. and discusses the procedure and cataloging of the material involved.

THE CLERK: Agnew Exhibit 3. (Agnew Exhibit No. 3 was received in evidence.)

MR. HARRISON: I respectfully offer a letter from the Attorney General of Maryland dated February 4, 1975, addressed to Mr. M.J. Mintz, an attorney in Washington, in regard to -- well, simply transmitting copies of material that transpire between the University of Maryland and GSA.

THE CLERK: Agnew Exhibit 4. (Agnew Exhibit No. 4 was received in evidence.)

MR. HARRISON: I respectfully offer a letter of February 8, 1975, from M.J. Mintz, Esq., to Mr. Arthur Sampson of General Services Administration.

THE CLERK: Agnew Exhibit No. 5. (Agnew Exhibit No. 5 was received in evidence.)

MR. HARRISON: What's the date of that? I am sorry.

THE CLERK: February 8, 1975.

MR. HARRISON: I respectfully a letter dated April 22, 1975, to Dr. George H. Calcott,



Vice-Chancellor for Academic Affairs, University of Maryland, from H.J. Mintz, Esq., which enclosed a draft of a proposal of the GSA with regards to the deed of gifts being made by Mr. Agnew to the University of Maryland.

THE COURT: This No. 5 that you offer, from Mr. Mintz to Mr. Sampson of General Services, Mr. Hintz doesn't indicate his interest in it.

MR. HARRISON: He was representing Mr. Agnew at that time.

THE COURT: I notice that you sent a copy to Mr. Agnew.

MR. HARRISON: They simply failed to send Mr. Mintz some copies and that was corrected.

THE CLERK: The letter to Dr. Callcott is Exhibit 6. (Agnew Exhibit No. 6 was received in evidence.)

MR. HARRISON: We respectfully offer a letter from the General Services Administration, Mr. Donald E. Young, Acting Assistant Administrator, to Dr. Wilson H. Elkins, President, the University of Maryland, in regard to the conditions and appraisal of values of items transmitted.

THE CLERK: Exhibit 7. (Agnew Exhibit No. 7 was received in evidence.)

MR. HARRISON: The next is a letter of June 19, 1975, from the General Services Administration to the University of Maryland regarding the transfer of materials and certain transportation arrangements.

THE CLERK: Exhibit 8. (Agnew Exhibit No. 8 was received in evidence.)

MR. HARRISON: Next is a letter from the University of Maryland, Mr. George H. Callcott, to M.J. Mintz, Esq., requesting clarification regarding Maryland's obligation in caring for Agnew papers and other items sent to the University of Maryland.

THE CLERK: Exhibit 9. (Agnew Exhibit 9 received in evidence.)

THE COURT: Mr. Polur, are you questioning the admissibility of these documents or the fact the court shouldn't consider them or are you questioning their authenticity or both?

MR. POLUR: I would say, your Honor, I would say that it's a little different than that. I would respectfully move that Mr. Agnew --

THE COURT: First, can you answer my question? Are you questioning their authenticity or are you questioning their admissibility which is a question of relevancy and materiality?

MR. POLUR: All right. I am moving on every count, your Honor, specifically admis-

sability on the ground that this is a selective submission which has opened the door to every letter Mr. Agnew has ever written and received since the time he was Vice President of the United States of America because everything about Mr. Agnew is at issue in this case and as is the security of the United States being directly involved in my view; as is any letter he has written to any foreign potentates.

As a result of this selective submission, your Honor, I think we have the right to every letter received from every foreign potentate and a letter written to every Department of Justice official, letters written to every official regarding any gift he has received or any gift he was ever given while acting as a Foreign Agent and Propagandist.

Your Honor, as to the propagandist issue, it was never raised by the Department of Justice in the letter --

MR. KRAMER: Your honor --

MR. POLUR: Excuse me -- the statute as to foreign agent and propagandist is a statute under Title 22 of the USC Code and the Department of Justice ignored the word "propagandist" in the submission by the Education for Democracy and it didn't include this as being the work of propagandist which is at issue as Jack Anderson has said is an area of propagandist work sheet that the Department

of Justice didn't even look at.

THE COURT: That is a very long answer which hasn't indicated yes or no to my question of whether you are objecting as to authenticity. If you are objecting on the grounds of authenticity of these letters, I am going to ask the probation officer to check really Mr. Elkin's signature on this and so forth. Do you want that done?

MR. POLUR: No, I do not need that done.

THE COURT: I understand your other points. I will consider them at the appropriate time. Now is not the appropriate time.

MR. POLUR: Yes I understand. Thank you.

THE COURT: I will, however, show them to the probation officer, Mr. Falconer, when you have looked at these and just give me a letter which I will file or a report which I will have filed in the case as to whether these documents change your mind in any way with respect to your report.

MR. KRAMER: Your Honor, Mr. Polur made one inaccurate statement. He talks in terms of propagandists, etc. The statute covers a propagandist as well. I spoke to the gentleman who did the report this morning because I wasn't familiar with it, based on a newspaper article, because

the Government hasn't received any of these pleadings, we learned of the case through the newspaper unfortunately.

MR. POLUR: They were mailed Friday.

MR. KRAMER: The gentleman from Washington is the individual as a matter of fact who called me when he heard it over the radio. There is this statute covering propagandists and the reason inquiry was made was based on the allegations that he was a propagandist. The report speaks for itself.

THE COURT: The Court will consider the authorities cited and the arguments made at the appropriate time if the Court of Appeals ever lets me do it in view of the petition that has been filed.

All right.

The hearing was adjourned at 11:05 a.m.

STATE OF MARYLAND) \_\_\_\_\_  
CITY OF BALTIMORE) SS.

C E R T I F I C A T E

I, DEAN A. ROBINSON, official court reporter for the United States District Court for the District of Maryland, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing is a true and correct transcript of the proceedings had in the within-entitled and numbered cause on the date hereinbefore set forth; and I do further certify that the foregoing transcript had been prepared by me personally or under my direct supervision.



No. 76-1840

Supreme Court, U. S.

FILED

AUG 31 1977

MICHAEL PODAK, JR., CLERK

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**In the Supreme Court of the United States**

OCTOBER TERM, 1977

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**SAM POLUR, PETITIONER**

v.

**HONORABLE ROSZEL C. THOMSEN AND UNITED STATES  
COURT OF APPEALS FOR THE FOURTH CIRCUIT**

---

**ON PETITION FOR A WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS FOR THE  
FOURTH CIRCUIT OR FOR A WRIT OF MANDAMUS**

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**MEMORANDUM FOR THE RESPONDENTS  
IN OPPOSITION**

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**WADE H. MCCREE, JR.,  
Solicitor General,  
Department of Justice,  
Washington, D.C. 20530.**

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**In the Supreme Court of the United States**

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**MEMORANDUM FOR THE RESPONDENTS  
IN OPPOSITION**

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On October 10, 1973, in the United States District Court for the District of Maryland, former Vice President Spiro T. Agnew entered a plea of *nolo contendere* to a charge of federal income tax evasion, in violation of 26 U.S.C. 7201. The court suspended the imposition of sentence, placed Agnew on three years' unsupervised probation, and fined him \$10,000 (Pet. App. A-4).

Approximately three years later, petitioner instituted a civil action in the United States District Court for the District of Maryland, seeking substantial monetary damages from Agnew and Education for Democracy, Inc. (a corporation allegedly controlled by Agnew; see Pet. App. B-90), on the basis of alleged violations of several

federal statutes. On October 5, 1976, ostensibly in connection with his pending civil action, petitioner filed a proposed "Order to Show Cause why Spiro T. Agnew should not have his probation revoked" (*id.* at B-59 to B-72). This motion essentially relied upon the allegations contained in petitioner's complaint in the civil action (*id.* at A-5). On October 8, 1976, Judge Thomsen, to whom the civil action had been assigned, conducted a hearing on petitioner's charge that Agnew had violated the terms of his probation by engaging in criminal conduct. Judge Thomsen noted that the allegations, if proven, might justify probation revocation pursuant to 18 U.S.C. 3653, and he accordingly requested the Department of Justice to investigate petitioner's contentions and to recommend whether any action should be taken (*id.* at A-5 to A-7).<sup>1</sup>

By letter to Judge Thomsen dated February 16, 1977, Assistant Attorney General Richard L. Thornburgh recommended that Agnew's probation not be revoked (Pet. App. B-83 to B-86). The letter focused upon the only two claims of misconduct alleged by petitioner to have occurred during the probationary period: (1) that Agnew had failed to register as a foreign agent in connection with his work for Education for Democracy, Inc., and (2) that Agnew failed to report or deliver to the State Department until April 1, 1974, a number of gifts that he had received from officials of foreign governments while he was Vice President. As to the former charge, the Department of Justice concluded that there was no reason to believe that Agnew, through Education for Democracy, Inc., had acted on behalf of or in the interest of any foreign principal or had otherwise incurred liability by failing to register as an agent, in violation of the Foreign Agents Registration Act, 52 Stat.

<sup>1</sup>Petitioner's appeal from this order was dismissed by the court of appeals on April 4, 1977 (No. 76-2381).

631, as amended, 22 U.S.C. 611 *et seq.* With respect to the latter charge, the Department determined that although there apparently had been technical violations of the Foreign Gifts and Decorations Act, 5 U.S.C. 7342, as a result of Agnew's delay in delivering certain gifts he received in 1971, "in view of the administrative rather than criminal background of the Act, it would be inappropriate to use the quasi-criminal sanction of probation revocation in this case" (Pet. App. B-86).

Upon receipt of the Department of Justice's report, Judge Thomsen scheduled a hearing for March 14, 1977, to determine whether a probation revocation hearing should be held (Pet. App. A-12 to A-14). On March 11, 1977, three days before the hearing date, petitioner filed petitions in the court of appeals for a writ of mandamus and for a temporary stay of the district court proceedings (*id.* at B-88 to B-106). The senior judge on the panel of the court of appeals to which the petitions were referred advised Judge Thomsen to proceed with the scheduled hearing but to defer decision until the appellate court had acted upon petitioner's requests (*id.* at A-10).

At the hearing on March 14, 1977, Deputy United States Attorney Paul Kramer formally recommended that no action be taken to revoke Agnew's probation (Pet. App. B-116), a recommendation that was concurred in by the Probation Office (*id.* at B-120 to B-122). After hearing from petitioner and from Agnew's attorney, Judge Thomsen adjourned the proceedings and reserved decision pending disposition by the court of appeals of the petitions for a writ of mandamus and a temporary stay (*id.* at B-141).

On March 16, 1977, the court of appeals denied petitioner's requests to prevent the district court from acting



on the probation revocation matter (Pet. App. A-2 to A-3).<sup>2</sup> Thereafter, on March 22, 1977, Judge Thomsen decided to follow the recommendations of the Department of Justice and the Probation Office and not to initiate probation revocation proceedings against Agnew (*id.* at A-4 to A-11; 428 F. Supp. 1293). Petitioner appealed this ruling on March 31, 1977, but his appeal was dismissed by the court of appeals on July 21, 1977, for want of prosecution (App., *infra*).

1. Petitioner contends that the court of appeals erred in denying his petition for a writ of mandamus to prevent Judge Thomsen from holding the proceedings scheduled for March 14, 1977. Since these proceedings have already occurred and the district court has finally determined not to hold an evidentiary hearing on whether Agnew's probation should be revoked, petitioner's request for relief is moot. See *Brockington v. Rhodes*, 396 U.S. 41, 43; *Owens v. Brierley*, 462 F. 2d 125, 126 (C.A. 3); *In re Grand Jury, August, 1965*, 360 F. 2d 917, 918 (C.A. 7); *Richland v. Crandall*, 353 F. 2d 183, 184 (C.A. 2).

2. In any event, petitioner lacks standing to challenge Judge Thomsen's decision not to initiate probation revocation proceedings against Agnew. The concept of standing arises from "the constitutional limitation of federal court jurisdiction to actual cases or controversies," *Simon v. Eastern Ky. Welfare Rights Org.*, 426 U.S. 26, 37, and "focuses on the party seeking to get his complaint before a federal court and not on the issues he wishes to have adjudicated." *Id.* at 38, quoting from *Flast v. Cohen*, 392

<sup>2</sup>The court of appeals denied a petition for rehearing on April 21, 1977 (Pet. App. A-1). Petitioner's assertion (Pet. 30, 33) that Judge Thomsen lacked power to rule on the probation revocation question before the time to petition for rehearing in the court of appeals had expired is incorrect. The court of appeals ordered on March 16, 1977, that its mandate issue forthwith (Pet. App. A-3).

U.S. 83, 99. See *Warth v. Seldin*, 422 U.S. 490, 498-499; *United States v. Richardson*, 418 U.S. 166, 176-180; *Linda R. S. v. Richard D.*, 410 U.S. 614, 617-618. Where, as here, "a plaintiff's standing is brought into issue the relevant inquiry is whether, assuming justiciability of the claim, the plaintiff has shown an injury to himself that is likely to be redressed by a favorable decision. Absent such a showing, exercise of its power by a federal court would be gratuitous and thus inconsistent with the Art. III limitation." *Simon v. Eastern Ky. Welfare Rights Org.*, *supra*, 426 U.S. at 38. Petitioner's personal stake in the determination whether to revoke Agnew's probation—a stake indistinguishable from that of any other citizen—is plainly insufficient to entitle him to challenge the propriety of the proceedings below.

The granting of probation, as well as its revocation, are matters addressed to the discretion of the district court. 18 U.S.C. 3651, 3653. See, e.g., *United States v. Brown*, 488 F. 2d 94 (C.A. 5); *United States v. Lara*, 472 F. 2d 128, 129-130 (C.A. 9); *United States v. Alarik*, 439 F. 2d 1349, 1351 (C.A. 8). Hence, Judge Thomsen's decision was similar in many respects to a prosecutor's absolute authority not to bring criminal charges. See *United States v. Nixon*, 418 U.S. 683, 693. In neither case does a private citizen have standing to invoke the power of the criminal justice system against another individual. Petitioner's responsibilities were fulfilled, and his role ended, when he called the attention of the district court to certain facts that might have supported a revocation of Agnew's probation. See *Bass Anglers Sportsman Society v. United States Steel Corp.*, 324 F. Supp. 412, 415 (D. Ala.), affirmed *sub nom. Bass Anglers Sportsman Society v. Koppers Company*, 447 F. 2d 1304 (C.A. 5). As this Court stated in *Linda R. S. v. Richard D.*, *supra*, 410 U.S. at 619:

The Court's prior decisions consistently hold that a citizen lacks standing to contest the policies of the prosecuting authority when he himself is neither prosecuted nor threatened with prosecution. See *Younger v. Harris*, 401 U.S. 37, 42 (1971); *Bailey v. Patterson*, 369 U.S. 31, 33 (1962); *Poe v. Ullmann*, 367 U.S. 497, 501 (1961). Although these cases arose in a somewhat different context, they demonstrate that, in American jurisprudence at least, a private citizen lacks a judicially cognizable interest in the prosecution or nonprosecution of another.

It is therefore respectfully submitted that the petition for a writ of certiorari or for a writ of mandamus should be denied.

WADE H. MCCREE, JR.,  
*Solicitor General.*

AUGUST 1977.

## APPENDIX

### UNITED STATES COURT OF APPEALS

#### FOR THE FOURTH CIRCUIT

No. 77-1664

In the case of:  
USA vs. Spiro T. Agnew

Sam Polur,

Appellant,

versus

United States of America  
and Spiro T. Agnew,

Appellees.

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Appeal from the United States District Court for the District of Maryland, at Baltimore. Roszel C. Thomsen, District Judge.

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IT IS ORDERED that the above appeal is dismissed for want of prosecution pursuant to Local Rule 10.

IT IS FURTHER ORDERED that a certified copy of this order be issued to the Clerk of the District Court as and for the mandate.

/s/ WILLIAM K. SLATE, II

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CLERK

Filed July 21, 1977